



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Income tax: charge, rates and reliefs*

#### **<sup>F1</sup>75 Charge and rates of income tax for 1994-95.**

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#### **Textual Amendments**

**F1** S. 75 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### **<sup>F2</sup>76 Personal allowance.**

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#### **Textual Amendments**

**F2** S. 76 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### **77 Rate of relief to married couples etc.**

**<sup>F3</sup>(1)** .....

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F3(2) .....

F4(3) .....

F4(4) .....

F5(5) .....

(6) The Taxes Act 1988 and the <sup>M1</sup>Taxes Management Act 1970 shall have effect with the amendments specified in Schedule 8 to this Act (which supplements the provisions of this section).

(7) This section and Schedule 8 to this Act shall have effect for the year 1994-95 and, subject to the following provisions of this section, for subsequent years of assessment.

F6(8) .....

F6(9) .....

F6(10) .....

**Textual Amendments**

**F3** S. 77(1)(2) omitted (21.7.2009) (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 1 para. 6(f)**

**F4** S. 77(3)(4) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(4), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(4)**, Note

**F5** S. 77(5) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(5), Note 2 in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(5)**, Note 2

**F6** S. 77(8)-(10) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**Marginal Citations**

**M1** 1970 c. 9.

**F778 Amount by reference to which MCA is reduced.**

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**Textual Amendments**

**F7** S. 78 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

**79 Relief for maintenance payments.**

(1) Sections 347A and 347B of the <sup>M2</sup>Taxes Act 1988 <sup>F8</sup>. . . (which contain provision with respect to the deductions from income allowed on account of maintenance payments) shall have effect in relation to payments becoming due on or after 6th April 1994 with the following modifications.

F9(2) .....

F10(3) .....

F10(4) .....

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- F10F9(5) .....
- F10(6) .....
- F9(7) .....
- F9(8) .....

#### Textual Amendments

- F8** Words in s. 79(1) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(6), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(6)**, Note
- F9** S. 79(2)(5)(7)(8) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(6), Note in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(6)**, Note
- F10** S. 79(3)-(6) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with **Sch. 2**)

#### Marginal Citations

- M2** 1988 c. 39.

### 80 Limit on relief for interest.

For each of the years 1994-95 and 1995-96 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

### 81 Mortgage interest relief etc.

- (1) For subsection (1) of section 353 of the Taxes Act 1988 (general provision for relief for interest payments) there shall be substituted the following subsection—

“(1) Where a person pays interest in any year of assessment, that person, if he makes a claim to the relief, shall for that year of assessment be entitled (subject to sections 354 to 368) to relief in accordance with this section in respect of so much (if any) of the amount of that interest as is eligible for relief under this section by virtue of sections 354 to 365.”

- (2) After that subsection there shall be inserted the following subsections—

“(1A) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

- (a) is eligible for that relief by virtue of section 354 or 365, and
- (b) so far as eligible by virtue of section 354, is so eligible in a case which falls, or is treated as falling, within section 355(1)(a), 356 or 358,

that relief shall consist in an income tax reduction for that year calculated by reference to that amount.

(1B) Where a person is entitled for any year of assessment to relief under this section in respect of any amount of interest which—

- (a) is eligible for that relief otherwise than by virtue of section 354 or 365, or
- (b) is eligible for that relief by virtue of section 354 in a case falling within section 355(1)(b),

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that relief shall consist (subject to sections 237(5)(b) and 355(4)) in a deduction or set-off of that amount from or against that person's income for that year.

(1C) Without prejudice to subsection (1E) below, where the whole or any part of an amount of interest is eligible for relief under this section by virtue of section 354 in a case which (apart from this subsection) would fall, or be treated as falling, within both section 355(1)(a) or 356 and section 355(1)(b), then that case shall be treated for the purposes of this section and the following provisions of this Act—

- (a) except in relation to payments to which an election made for the purposes of this subsection by the person entitled to the relief applies, as falling within section 355(1)(b) and not within section 355(1)(a) or 356; and
- (b) in relation to payments to which such an election does apply, as falling within section 355(1)(a) or, as the case may be, 356, and not within section 355(1)(b).

(1D) An election for the purposes of subsection (1C)—

- (a) shall be made, and may be withdrawn, by the giving of written notice to an officer of the Board;
- (b) shall apply to every payment of interest which—
  - (i) is made after the time specified in the notice of that election as the time as from which it takes effect; and
  - (ii) is not made after a time specified in a notice of the withdrawal of that election as the time as from which that election is withdrawn;
- (c) shall not be made so as to take effect as from any time except the beginning of a year of assessment or a time as from which the conditions for the case to fall, or be treated as falling, within both section 355(1)(a) or 356 and section 355(1)(b) have begun to be satisfied in relation to payments of interest on the loan in question;
- (d) shall not be withdrawn except as from the beginning of a year of assessment; and
- (e) shall not be made so as to take effect, and shall not be withdrawn, as from any time before the beginning of the year of assessment immediately before that in which the notice of the election or, as the case may be, of the withdrawal is given to an officer of the Board.

(1E) Where any person is entitled for any year of assessment to relief under this section in respect of any amount of interest as is eligible for that relief partly as mentioned in subsection (1A) above and partly as mentioned in subsection (1B) above, that amount of interest shall be apportioned between the cases to which each of those subsections applies without regard to what parts of the total amount borrowed remain outstanding but according to the following factors, that is to say—

- (a) the proportions of the total amount borrowed which were applied for different purposes; and
- (b) in the case of so much of any amount of interest which is, or in pursuance of an apportionment under paragraph (a) above is treated as, eligible for relief by virtue of section 354, the different uses to which the land or other property in question is put from time to time;

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and subsection (1A) or (1B) above shall apply accordingly in relation to the interest apportioned to the case to which that subsection applies.

(1F) Where any person is entitled under this section for any year of assessment to an income tax reduction calculated by reference to an amount of interest, the amount of that person's liability for that year to income tax on his total income shall be the amount to which he would have been liable apart from this section less whichever is the smaller of—

- (a) the amount equal to the applicable percentage of that amount of interest; and
- (b) the amount which reduces his liability to nil.

(1G) In subsection (1F) above “the applicable percentage”—

- (a) in relation to so much of any interest as is eligible for relief under this section by virtue of section 354, means 20 per cent.; and
- (b) in relation to so much of any interest as is eligible for relief under this section by virtue of section 365, means the percentage which is the basic rate for the year of assessment in question;

but, in relation to any payment of interest which (whenever falling due) is made in the year 1995-96 or any subsequent year of assessment, paragraph (a) above shall have effect with the substitution of “15 per cent.” for “20 per cent.”

(1H) In determining for the purposes of subsection (1F) above the amount of income tax to which a person would be liable apart from any income tax reduction under this section, no account shall be taken of—

- (a) any income tax reduction under Chapter I of Part VII or section 347B;
- (b) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1); or
- (c) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.”

<sup>F11</sup>(3) .....

(4) For subsections (3) to (5B) of section 369 of that Act (provisions balancing deduction of relevant loan interest from income against charge to tax) there shall be substituted the following subsection—

“(3) The following payments, that is to say—

- (a) payments of relevant loan interest to which this section applies, and
- (b) payments which would be such payments but for section 373(5),

shall not be allowable as deductions for any purpose of the Income Tax Acts except in so far as they fall to be treated as such payments by virtue only of section 375(2) and would be allowable apart from this subsection.”

(5) Schedule 9 to this Act (which for the purposes of or in connection with the provisions of this section makes further modifications of certain enactments in relation to tax relief on interest payments) shall have effect.

(6) The preceding provisions of this section and that Schedule—

- (a) shall have effect in relation to payments of interest made on or after 6th April 1994 (whenever falling due); and

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(b) shall also have effect, so far as they relate to relevant loan interest, in relation to any payments of interest becoming due on or after 6th April 1994 which have been made at any time before that date but on or after 30th November 1993.

(7) Any provision made before the passing of this Act by reference to the basic rate of income tax and contained in any instrument or agreement under or in accordance with which payments of relevant loan interest have been or are to be made shall be taken, in relation to any such payment as is mentioned in subsection (6)(a) or (b) above, to have been made, instead, by reference to a rate which, in the case of that payment, is the applicable percentage for the purposes of subsection (1) of section 369 of the Taxes Act 1988.

<sup>F11</sup>(8) .....

(9) In this section “relevant loan interest” has the same meaning as in Part IX of the Taxes Act 1988.

**Textual Amendments**

**F11** S. 81(3)(8) repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(7), Note 4 in the repealing Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)**, Note 4

**82 Relief for blind persons.**

(1) In section 265(1) of the Taxes Act 1988 (blind person’s allowance) for “£1,080” there shall be substituted “ £1,200 ”.

(2) This section shall apply for the year 1994-95 and subsequent years of assessment.

<sup>F12</sup>**83** .....

**Textual Amendments**

**F12** S. 83 repealed (31.7.1997 with effect as mentioned in Sch. 8 Pt. II(2), Note in the repealing Act) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(2)**, Note

<sup>F13</sup>**84** .....

**Textual Amendments**

**F13** S. 84 repealed (27.7.1999 with effect as mentioned in s. 59(3)(b), Sch. 20 Pt. III(15), Note in the repealing Act) by 1999 c. 16, ss. 59(3)(b), 139, **Sch. 20 Pt. III(15)**, Note; S.I. 2000/2004, **art. 2**

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*Corporation tax charge and rate*

**85 Charge and rate of corporation tax for 1994.**

Corporation tax shall be charged for the financial year 1994 at the rate of 33 per cent.

**F1486 Small companies.**

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**Textual Amendments**

**F14** S. 86 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Benefits in kind*

**87 Car fuel.**

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

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**“ TABLE A**

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£640
More than 1,400 but not more than 2,000	£810
More than 2,000	£1,200

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**TABLE AB**

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£580
More than 2,000	£750

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**TABLE B**

<i>Description of car</i>	<i>Cash equivalent</i>
Any car	£1,200”

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(2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

**F1588 Beneficial loan arrangements.**

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**Textual Amendments**

**F15** S. 89 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F1589 Vouchers and credit-tokens.**

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**Textual Amendments**

**F15** S. 89 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

*Chargeable gains*

**90 Annual exempt amount for 1994-95.**

For the year 1994-95 section 3 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

**Marginal Citations**

**M3** 1992 c. 12.

**91 Relief on re-investment.**

- (1) Schedule 11 to this Act (which extends the relief on re-investment for individuals and trustees provided by Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.
- (2) That Schedule shall have effect in relation to disposals made on or after 30th November 1993.
- (3) In section 164H(1) of that Act—
  - (a) for “is greater than” there shall be substituted “ exceeds ”, and
  - (b) at the end there shall be added “ or half the value of the company’s assets as a whole (whichever is the greater); and section 294(3) and (4) of the Taxes Act (meaning of value of company’s assets as a whole) applies for the purposes of this subsection as it applies for the purposes of section 294 of that Act ”.
- (4) Subsection (3) above shall apply to determine whether a company is a qualifying company on or after 30th November 1993.

**F1692** .....



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### Textual Amendments

**F16** S. 92 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(31), Note in the repealing Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(31) Note

## 93 Indexation losses.

- (1) In section 53 of the Taxation of Chargeable Gains Act 1992 (indexation allowance), in subsection (1), for the words following “contrary” to the end of paragraph (c) there shall be substituted “if on the disposal of an asset there is an unindexed gain, an allowance (“the indexation allowance”) shall be allowed against the unindexed gain—
  - (a) so as to give the gain for the purposes of this Act, or
  - (b) if the indexation allowance equals or exceeds the unindexed gain, so as to extinguish it (in which case the disposal shall be one on which, after taking account of the indexation allowance, neither a gain nor a loss accrues)”.
- (2) In subsection (2) of that section—
  - (a) for “subsection (1) above” there shall be substituted “ this Chapter ”,
  - (b) for paragraph (a) there shall be substituted—
    - “(a) “unindexed gain” means the amount of the gain on the disposal computed in accordance with this Part”, and
  - (c) in paragraph (b), for “gain or loss” there shall be substituted “ gain ”.
- (3) After that subsection there shall be inserted—

“(2A) Notwithstanding anything in section 16 of this Act, this section shall not apply to a disposal on which a loss accrues.”
- (4) In section 55 of that Act (assets acquired on a no gain/no loss disposal), after subsection (6) there shall be inserted—
  - “(7) The rules in subsection (8) below apply (after the application of section 53 but before the application of section 35(3) or (4)) to give the gain or loss for the purposes of this Act where—
    - (a) subsection (6) above applies to the disposal (the “disposal in question”) of an asset by any person (the “transferor”), and
    - (b) but for paragraph (b) of that subsection, the consideration the transferor would be treated as having given for the asset would include an amount or amounts of indexation allowance brought into account by virtue of section 56(2) on any disposal made before 30th November 1993.
- (8) The rules are as follows—
  - (a) where (apart from this subsection) there would be a loss, an amount equal to the rolled-up indexation shall be added to it so as to increase it,
  - (b) where (apart from this subsection) the unindexed gain or loss would be nil, there shall be a loss of an amount equal to the rolled-up indexation, and
  - (c) where (apart from this subsection)—

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- (i) there would be an unindexed gain, and
- (ii) the gain or loss would be nil but the amount of the indexation allowance used to extinguish the gain would be less than the rolled-up indexation,

the difference shall constitute a loss.

- (9) In this section the “rolled-up indexation” means, subject to subsections (10) and (11) below, the amount or, as the case may be, the aggregate of the amounts referred to in subsection (7)(b) above; and subsections (10) and (11) below shall, as well as applying on the disposal in question, be treated as having applied on any previous part disposal by the transferor.
  - (10) Where, for the purposes of any disposal of the asset by the transferor, any amount falling within any, or any combination of, paragraphs (a) to (c) of section 38(1) is required by any enactment to be excluded, reduced or written down, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (11) below on a previous part disposal) shall be reduced in proportion to any reduction made in the amount falling within the paragraph, or the combination of paragraphs, in question.
  - (11) Where the transferor makes a part disposal of the asset at any time, then, for the purposes of that and any subsequent disposal, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (10) above on a previous part disposal by him or after the application of subsection (10) above on the part disposal) shall be apportioned between the property disposed of and the property which remains in the same proportions as the sums falling within section 38(1)(a) and (b).”
- (5) In section 56 of that Act (amount of consideration on no gain/no loss disposals)—
- (a) in subsection (2) for the words preceding paragraph (a) there shall be substituted “ On a no gain/no loss disposal by any person (“the transferor”)”, and
  - (b) after that subsection there shall be added—
    - “(3) Where apart from this subsection—
      - (a) a loss would accrue on the disposal of an asset, and
      - (b) the sums allowable as a deduction in computing that loss would include an amount attributable to the application of the assumption in subsection (2) above on any no gain/no loss disposal made on or after 30th November 1993,
 those sums shall be determined as if that subsection had not applied on any such disposal made on or after that date and the loss shall be reduced accordingly or, if those sums are then equal to or less than the consideration for the disposal, the disposal shall be one on which neither a gain nor a loss accrues.
  - (4) For the purposes of this section a no gain/no loss disposal is one which, by virtue of any enactment other than section 35(4), 53(1) or this section, is treated as a disposal on which neither a gain nor a loss accrues to the person making the disposal.”

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(6) In section 110 of that Act (indexation allowance for share pools), after subsection (6) there shall be inserted—

“(6A) Where a disposal to a person acquiring or adding to a new holding is treated by virtue of any enactment as one on which neither a gain nor a loss accrues to the person making the disposal—

- (a) section 56(2) shall not apply to the disposal (and, accordingly, the amount of the consideration shall not be calculated on the assumption that a gain of an amount equal to the indexation allowance accrues to the person making the disposal), but
- (b) an amount equal to the indexation allowance on the disposal shall be added to the indexed pool of expenditure for the holding acquired or, as the case may be, held by the person to whom the disposal is made (and, where it is added to the indexed pool of expenditure for a holding so held, it shall be added after any increase required by subsection (8)(a) below).”

(7) Sections 103 (collective investment schemes, etc.), 111 (building society etc. shares), 182 to 184 (groups and associated companies) and 200 (oil industry assets) of that Act (all of which relate to indexation allowance) shall cease to have effect.

- <sup>F17</sup>(8) .....
- <sup>F17</sup>(9) .....
- <sup>F17</sup>(10) .....

(11) This section shall have effect in relation to disposals made on or after 30th November 1993 and Schedule 12 to this Act (which gives transitional relief) shall have effect for the years 1993–94 and 1994–95.

**Textual Amendments**

**F17** S. 93(8)-(10) repealed (19.7.2011) (with effect in accordance with Sch. 11 para. 11 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 10\(a\)](#)

**<sup>F18</sup>94 Set-off of pre-entry losses.**

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**Textual Amendments**

**F18** S. 94 repealed (19.7.2011) (with effect in accordance with Sch. 11 para. 11 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 10\(a\)](#)

**95 Commodity and financial futures.**

(1) In section 143 of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 (commodity and financial futures and qualifying options), subsection (4) shall cease to have effect and for subsection (6) there shall be substituted the following subsections—

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- “(6) In any case where, in the course of dealing in commodity or financial futures, a person has entered into a futures contract and—
- (a) he has not closed out the contract (as mentioned in subsection (5) above), and
  - (b) he becomes entitled to receive or liable to make a payment, whether under the contract or otherwise, in full or partial settlement of any obligations under the contract,
- then, for the purposes of this Act, he shall be treated as having disposed of an asset (namely, that entitlement or liability) and the payment received or made by him shall be treated as consideration for the disposal or, as the case may be, as incidental costs to him of making the disposal.
- (7) Section 46 shall not apply to obligations under—
- (a) a commodity or financial futures contract which is entered into by a person in the course of dealing in such futures on a recognised futures exchange; or
  - (b) a commodity or financial futures contract to which an authorised person or listed institution is a party.
- (8) In this section—
- “authorised person” has the same meaning as in the Financial Services Act 1986, and
- “listed institution” has the same meaning as in section 43 of that Act.”
- (2) This section shall apply in relation to contracts entered into on or after 30th November 1993.

**Marginal Citations**

M4 1992 c.12.

**96 Cash-settled options.**

- (1) After section 144 of the <sup>M5</sup>Taxation of Chargeable Gains Act 1992 (options and forfeited deposits) there shall be inserted the following section—

**“144A Cash-settled options.**

- (1) In any case where—
- (a) an option is exercised; and
  - (b) the nature of the option (or its exercise) is such that the grantor of the option is liable to make, and the person exercising it is entitled to receive, a payment in full settlement of all obligations under the option,
- subsections (2) and (3) below shall apply in place of subsections (2) and (3) of section 144.
- (2) As regards the grantor of the option—

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- (a) he shall be treated as having disposed of an asset (namely, his liability to make the payment) and the payment made by him shall be treated as incidental costs to him of making the disposal; and
  - (b) the grant of the option and the disposal shall be treated as a single transaction and the consideration for the option shall be treated as the consideration for the disposal.
- (3) As regards the person exercising the option—
- (a) he shall be treated as having disposed of an asset (namely, his entitlement to receive the payment) and the payment received by him shall be treated as the consideration for the disposal;
  - (b) the acquisition of the option (whether directly from the grantor or not) and the disposal shall be treated as a single transaction and the cost of acquiring the option shall be treated as expenditure allowable as a deduction under section 38(1)(a) from the consideration for the disposal; and
  - (c) for the purpose of computing the indexation allowance (if any) on the disposal, the cost of the option shall be treated (notwithstanding paragraph (b) above) as incurred when the option was acquired.
- (4) In any case where subsections (2) and (3) above would apply as mentioned in subsection (1) above if the reference in that subsection to full settlement included a reference to partial settlement, those subsections and subsections (2) and (3) of section 144 shall both apply but with the following modifications—
- (a) for any reference to the grant or acquisition of the option there shall be substituted a reference to the grant or acquisition of so much of the option as relates to the making and receipt of the payment or, as the case may be, the sale or purchase by the grantor; and
  - (b) for any reference to the consideration for, or the cost of or of acquiring, the option there shall be substituted a reference to the appropriate proportion of that consideration or cost.
- (5) In this section “appropriate proportion” means such proportion as may be just and reasonable in all the circumstances.”
- (2) This section shall apply in relation to options granted on or after 30th November 1993.

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**Marginal Citations**

M5 1992 c.12.

**97 Settlements with foreign element: information.**

- (1) The <sup>M6</sup>Taxation of Chargeable Gains Act 1992 shall be amended as mentioned in subsections (2) to (4) below.
- (2) In Chapter II of Part III (settlements) the following section shall be inserted after section 98—

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**“98A Settlements with foreign element: information.**

Schedule 5A to this Act (which contains general provisions about information relating to settlements with a foreign element) shall have effect.”

(3) The following Schedule shall be inserted after Schedule 5—

“SCHEDULE 5A

Section 98A.

SETTLEMENTS WITH FOREIGN ELEMENT: INFORMATION

- 1 In this Schedule “the commencement day” means the day on which the Finance Act 1994 was passed.
- 2 (1) This paragraph applies if—
  - (a) a settlement was created before 19th March 1991,
  - (b) on or after the commencement day a person transfers property to the trustees otherwise than under a transaction entered into at arm’s length and otherwise than in pursuance of a liability incurred by any person before that day,
  - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
  - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.

(2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—

  - (a) identifies the settlement, and
  - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.

(3) For the purposes of sub-paragraph (2) above the relevant day is the day on which the transfer is made.
- 3 (1) This paragraph applies if a settlement is created on or after the commencement day, and at the time it is created—
  - (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

(2) Any person who—

  - (a) is a settlor in relation to the settlement at the time it is created, and
  - (b) at that time fulfils the condition mentioned in sub-paragraph (3) below,

shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.

(3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.

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- (4) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the settlement is created.
- 4 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
  - (b) at that time does not fulfil the condition mentioned in sub-paragraph (3) below, and
  - (c) first fulfils that condition at a time falling on or after the commencement day,
- shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the person first fulfils the condition as mentioned in paragraph (c) of that sub-paragraph.
- 5 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (the relevant time) on or after the commencement day neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on or after the commencement day trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—

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- (a) the day on which the settlement was created,
  - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the day when the relevant time falls.
- 6 (1) Nothing in paragraph 2, 3, 4 or 5 above shall require information to be contained in the return concerned to the extent that—
- (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 2, 3, 4 or 5 above shall require a return to be delivered if—
- (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.”
- (4) In Schedule 5, paragraphs 11 to 14 (information) shall be omitted.
- (5) Subsection (4) above shall have effect where the relevant day falls on or after the day on which this Act is passed.
- (6) In the Table in section 98 of the <sup>M7</sup>Taxes Management Act 1970 (penalties) at the end of the second column there shall be inserted—
- “ Paragraphs 2 to 6 of Schedule 5A to the 1992 Act. ”

**Marginal Citations**

**M6** 1992 c. 12.  
**M7** 1970 c. 9.

*Profit-related pay*

**F19**<sup>98</sup> .....

**Textual Amendments**

**F19** S. 98 repealed (19.3.1997 with effect as mentioned in s. 61(2)(3), Sch. 18 Pt. VI(3), Notes 1, 2 in the repealing Act) by 1997 c. 16, ss. 61(2)(3), 113, **Sch. 18 Pt. VI(3)**, Notes 1, 2



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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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F2099 .....

**Textual Amendments**

**F20** S. 99 repealed (19.3.1997 with effect as mentioned in s. 61(2)(3), Sch. 18 Pt. VI(3), Notes 1, 2 in the repealing Act) by 1997 c. 16, ss. 61(2)(3), 113, Sch. 18 Pt. VI(3), Notes 1, 2

*Profit sharing schemes*

**100 Relevant age for purpose of appropriate percentage.**

- (1) Schedule 10 to the Taxes Act 1988 (profit sharing schemes) shall be amended as follows.
- (2) In paragraph 3 (the appropriate percentage for purposes of tax charge) the words from “In this paragraph” to the end of the paragraph shall be omitted.
- (3) The following paragraph shall be inserted after paragraph 3—

- “3A
- (1) In paragraph 3 above the reference to the relevant age shall be construed as follows.
  - (2) Where the scheme is approved before 25th July 1991 and the event occurs before 30th November 1993, the relevant age is pensionable age.
  - (3) Where—
    - (a) the scheme is approved before 25th July 1991,
    - (b) the event occurs on or after 30th November 1993,
    - (c) the scheme defines the period of retention by reference to the age of 60 for both men and women, and
    - (d) the reference to that age is incorporated in the definition by virtue of an alteration approved by the Board under paragraph 4 of Schedule 9 before the event occurs,the relevant age is 60.
  - (4) Where—
    - (a) the scheme is approved before 25th July 1991,
    - (b) the event occurs on or after 30th November 1993, and
    - (c) sub-paragraph (3) above does not apply,the relevant age is pensionable age.
  - (5) Where the scheme is approved on or after 25th July 1991, the relevant age is the specified age.”

**101 Acceptance of qualifying corporate bonds for shares.**

- (1) Schedule 10 to the Taxes Act 1988 (profit sharing schemes) shall be amended as mentioned in subsections (2) to (4) below.

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(2) In paragraph 1 (limitations on contractual obligations of participants) in sub-paragraph (1) the following paragraph shall be inserted after paragraph (c)—

“(cc) directing the trustees to accept an offer of a qualifying corporate bond, whether alone or with cash or other assets or both, for his shares if the offer forms part of a general offer which is made as mentioned in paragraph (c) above; or”.

(3) In paragraph 1 the following sub-paragraph shall be inserted after sub-paragraph (3)—

“(4) In sub-paragraph (1)(cc) above “qualifying corporate bond” shall be construed in accordance with section 117 of the 1992 Act.”

(4) The following paragraph shall be inserted after paragraph 5 (company reconstructions)

“5A (1) Paragraph 5(2) to (6) above apply where there occurs in relation to any of a participant’s shares (“the original holding”) a relevant transaction which would result in a new holding being equated with the original holding for the purposes of capital gains tax, were it not for the fact that what would be the new holding consists of or includes a qualifying corporate bond; and “relevant transaction” here means a transaction mentioned in Chapter II of Part IV of the 1992 Act.

(2) In paragraph 5(2) to (6) above as applied by this paragraph—

- (a) references to a company reconstruction are to the transaction referred to in sub-paragraph (1) above;
- (b) references to the new holding are to what would be the new holding were it not for the fact mentioned in sub-paragraph (1) above;
- (c) references to the original holding shall be construed in accordance with sub-paragraph (1) above (and not paragraph 5(1));
- (d) references to shares, in the context of the new holding, include securities and rights of any description which form part of the new holding.

(3) In sub-paragraph (1) above “qualifying corporate bond” shall be construed in accordance with section 117 of the 1992 Act.”

(5) In paragraph 32(1) of Schedule 9 to the Taxes Act 1988 (requirements applicable to profit sharing schemes) for “or (c)” there shall be substituted “, (c) or (cc)”.

(6) In paragraph 33(a) of Schedule 9 to the Taxes Act 1988 (which provides that the trust instrument must contain certain provision by reference to new shares within the meaning of paragraph 5 of Schedule 10) the reference to paragraph 5 of Schedule 10 shall be construed as including a reference to that paragraph as applied by paragraph 5A.

(7) Subsections (2) and (3) above shall have effect where a direction is made on or after the day on which this Act is passed.

(8) Subsection (4) above shall have effect where what would be the new holding comes into being on or after the day on which this Act is passed; but this is subject to subsection (13) below.

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (9) Subsection (5) above shall have effect in relation to any scheme not approved before the day on which this Act is passed.
- (10) In a case where—
- (a) a scheme is approved before the day on which this Act is passed, and
  - (b) on or after that day the trust instrument is altered in such a way that paragraph 32(1) of Schedule 9 to the Taxes Act 1988 would be fulfilled if subsection (5) above applied in relation to the scheme,
- subsection (5) above shall apply in relation to the scheme with effect from the time the alteration is made.
- (11) Subsection (6) above shall have effect in relation to any scheme not approved before the day on which this Act is passed.
- (12) In a case where—
- (a) a scheme is approved before the day on which this Act is passed, and
  - (b) on or after that day the trust instrument is altered in such a way that paragraph 33(a) of Schedule 9 to the Taxes Act 1988 would be fulfilled if subsection (6) above applied in relation to the scheme,
- subsection (6) above shall apply in relation to the scheme with effect from the time the alteration is made.
- (13) In a case where—
- (a) a scheme is approved before the day on which this Act is passed,
  - (b) subsection (4) above would apply in relation to the scheme by virtue of subsection (8) above and apart from this subsection, and
  - (c) the trust instrument is not altered as mentioned in subsection (12)(b) above before what would be the new holding comes into being,
- subsection (4) above shall not apply in relation to the scheme.
- (14) Subsection (6) above shall not imply a contrary intention for the purposes of section 20(2) of the <sup>M8</sup>Interpretation Act 1978 in its application to other references to paragraph 5 of Schedule 10 to the Taxes Act 1988.

**Marginal Citations**

**M8** 1978 c.30.

*Employee share ownership trusts*

**102 Employee share ownership trusts.**

Schedule 13 to this Act (which contains provisions about employee share ownership trusts) shall have effect.

*Retirement benefits schemes*

<sup>F21</sup>**103 The administrator.**

.....

*Changes to legislation: Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Textual Amendments**

**F21** Ss. 103-107 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F21 104 Default of administrator etc.**

.....

**Textual Amendments**

**F21** Ss. 103-107 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F21 105 Information.**

.....

**Subordinate Legislation Made**

**P1** S. 105(5) power exercised: 1.1.1996 appointed by [S.I. 1995/3125](#), [art. 2](#)

**Textual Amendments**

**F21** Ss. 103-107 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**Commencement Information**

**I1** S 105 wholly in force at 1.1.1996; s. 105 in force at Royal Assent except for s. 105(3)(4)(b) see s. 105(5); s. 105(3)(4)(b) in force at 1.1.1996 by [S.I. 1995/3125](#), [art. 2](#)

**F21 106 False statements etc.**

.....

**Textual Amendments**

**F21** Ss. 103-107 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F21 107 Discretionary approval.**

.....

**Textual Amendments**

**F21** Ss. 103-107 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**108 Taxation of benefits of non-approved schemes.**

**F22**(1) .....

**F22**(2) .....

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- F22(3) .....
- F22(4) .....
- F22(5) .....
- F22(6) .....

(7) Subject to subsection (8) below, in the Taxes Act 1988—

- (a) in section 188(1), paragraph (c), and
- F22(b) .....

(exemption from tax where recipient of benefit or lump sum chargeable to tax in respect of sums paid or treated as paid with a view to the provision of the benefit or lump sum) shall cease to have effect in relation to any benefit provided or lump sum paid on or after 1st December 1993.

(8) The repeals made by subsection (7) above shall not have effect in relation to any benefit provided or lump sum paid on or after 1st December 1993 in pursuance of a scheme or arrangement entered into before that day unless the scheme or arrangement is varied on or after that day with a view to the provision of the benefit or lump sum.

**Textual Amendments**

**F22** S. 108(1)-(6)(7)(b) repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Annuities*

**F23 109 Annuities derived from personal pension schemes.**

.....

**Textual Amendments**

**F23** Ss. 109, 110 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**F23 110 Annuities derived from retirement benefits schemes.**

.....

**Textual Amendments**

**F23** Ss. 109, 110 repealed (6.4.2003) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

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### *Authorised unit trusts*

<sup>F24</sup> **111** .....

#### **Textual Amendments**

**F24** S. 111 repealed (29.4.1996 with effect as mentioned in Sch. 41 Pt. V(1) Note 1 of the amending Act) by 1996 c. 8, ss. 73, 205, Sch. 6 para. 28, **Sch. 41 Pt. V(1)** Note 1

**112 Distributions of authorised unit trusts.**

Schedule 14 to this Act (distributions of authorised unit trusts) shall have effect.

<sup>F25</sup> **113 Umbrella schemes.**

.....

#### **Textual Amendments**

**F25** S. 113 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

### *Exchange gains and losses*

**114 Assets and liabilities.**

<sup>F26</sup> .....

#### **Textual Amendments**

**F26** S. 114 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by Finance Act 2002 (c. 23), s. 141, **Sch. 40 Pt. 3(10)**

**115 Currency contracts: net payments.**

<sup>F27</sup> .....

#### **Textual Amendments**

**F27** S. 115 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by Finance Act 2002 (c. 23), s. 141, **Sch. 40 Pt. 3(10)**

**116 Currency contracts: matching.**

<sup>F28</sup> .....

**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F28** S. 116 repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by Finance Act 2002 (c. 23), s. 141, Sch. 40 Pt. 3(10)

*Capital allowances*

**F29** 117 .....

**Textual Amendments**

**F29** S. 117 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

**118 Expenditure on machinery or plant: notification.**

**F30**(1) .....

**F30**(2) .....

**F30**(3) .....

**F30**(3A) .....

**F30**(4) .....

**F30**(5) .....

(6) For the purposes of—

**F31F32**(a) .....

(b) section 44(4) of the Finance Act 1971 (provision corresponding to section 25(1) applicable to earlier chargeable periods),]

expenditure which has not formed part of a person's qualifying expenditure for a previous chargeable period may not form part of his qualifying expenditure for a subsequent chargeable period unless the machinery or plant on which the expenditure was incurred belongs to that person at some time in that subsequent period <sup>F33</sup> . . .

**F30**(7) .....

**F30**(8) .....

**F30**(9) .....

**Textual Amendments**

**F30** S. 118(1)-(5)(7)-(9) repealed (28.7.2000 with effect as mentioned in s. 73(2) of the repealing Act) by 2000 c. 17, ss. 73(1)(a), 156, Sch. 40 Pt. II(8), Note 3

**F31** S. 118(6)(a)(b) substituted for words in s. 118(6) (28.7.2000 with effect as mentioned in s. 73(2) of the amending Act) by 2000 c. 17, s. 73(1)(b)

**F32** S. 118(6)(a) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

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**F33** Words in s. 118(6) repealed (3.5.1994 with effect as mentioned in ss. 211(2), 218(1)(b) of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(24)**, Note 5

**119 Transactions between connected persons.**

<sup>F34</sup>(1) .....

(2) Paragraph 4(2) of Schedule 7 to the <sup>M9</sup>Capital Allowances Act 1968 (provision corresponding to section 158(2)) shall be assumed always to have had effect subject to amendments corresponding to those made to section 158(2) of the 1990 Act by section 117(2) and (3) of the Finance Act 1993.

**Textual Amendments**

**F34** S. 119(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

**Marginal Citations**

**M9** 1968 c. 3.

<sup>F35</sup>**120** .....

**Textual Amendments**

**F35** S. 120 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

<sup>F36</sup>**121** .....

**Textual Amendments**

**F36** S. 121 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

*Securities*

<sup>F37</sup>**122 Sale and repurchase of securities: deemed manufactured payments.**

.....

**Textual Amendments**

**F37** S. 122 repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 2(14)**



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## **123 Manufactured payments.**

- F38 (1) .....
- F39 (2) .....
- F39 (3) .....
- F39 (4) .....
- F39 (5) .....
- F40 (6) .....
- F39 (7) .....

### **Textual Amendments**

- F38** S. 123(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F39** S. 123(2)-(5)(7) repealed (19.3.1997 with effect as mentioned in [Sch. 10 para. 7\(1\)](#), [Sch. 18 Pt. VI\(10\)](#), Note 1 of the repealing Act) by [1997 c. 16](#), s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**
- F40** S. 123(6) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

## **F41 124 .....**

### **Textual Amendments**

- F41** S. 124 repealed (29.4.1996) by [1996 c. 8](#), s. 205, **Sch. 41 Pt. V(21)** Note 2

*PAYE*

## **F42 125 Payment by intermediary.**

.....

### **Textual Amendments**

- F42** [Ss. 125-132](#) repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

## **F42 126 Employees working for persons other than their employers, etc.**

.....

### **Textual Amendments**

- F42** [Ss. 125-132](#) repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

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**F42 127 Tradeable assets.**

.....

**Textual Amendments**

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F42 128 Non-cash vouchers.**

.....

**Textual Amendments**

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F42 129 Credit-tokens.**

.....

**Textual Amendments**

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F42 130 Cash vouchers.**

.....

**Textual Amendments**

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F42 131 Supplementary.**

.....

**Textual Amendments**

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F42 132 Payments etc. received free of tax.**

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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### Textual Amendments

**F42** Ss. 125-132 repealed (6.4.2003) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

## 133 PAYE regulations: past cases.

- (1) Regulation 4 of the 1993 Regulations (intermediate employers) is hereby revoked; but in relation to any time before its revocation it shall be deemed to have been validly made.
- (2) Regulation 3 of the 1973 Regulations (intermediate employers) shall, in relation to any time before its revocation, be deemed to have been validly made.
- (3) Where, at any time before the passing of this Act—
  - (a) a payment has been made of, or on account of, any income of an employee not resident or, if resident, not ordinarily resident in the United Kingdom,
  - (b) at the time when the payment was made it appeared that some of the income would be assessable to income tax under Case II of Schedule E, but that some of the income might prove not to be assessable to income tax under that Schedule, and
  - (c) the payment or any proportion of it was treated for the purposes of the 1993 Regulations or the 1973 Regulations as a payment to which the regulations applied,then the treatment of that payment or that proportion of the payment as being a payment to which the regulations applied shall be deemed to have been lawful.
- (4) In this section—
  - (a) “employee” means a person holding an office or employment under or with any other person;
  - (b) “the 1993 Regulations” means the <sup>M10</sup>Income Tax (Employments) Regulations 1993; and
  - (c) “the 1973 Regulations” means the <sup>M11</sup>Income Tax (Employments) Regulations 1973.

### Marginal Citations

**M10** [S.I. 1993/774](#).  
**M11** [S.I. 1973/334](#).

## *Miscellaneous provisions about companies*

### <sup>F43</sup>134 Controlled foreign companies.

.....

**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Textual Amendments

**F43** S. 134 omitted (21.7.2009) (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(b)** (with Sch. 16 paras. 7, 8)

### <sup>F44</sup>135 Prevention of avoidance of corporation tax.

.....

#### Textual Amendments

**F44** S. 135 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

### 136 Parts of trades: computations in different currencies.

(1) The following section shall be inserted after section 94 of the <sup>M12</sup>Finance Act 1993 (computations in different currencies for different parts of trades)—

#### “94A Parts of trades: petroleum extraction companies.

- (1) If a trade carried on by a petroleum extraction company is a ring fence trade—
- (a) subsection (1) of section 94 above shall not apply as regards the trade, but
  - (b) regulations may make provision under that section as regards a case where in an accounting period the company carries on the trade and the condition mentioned in subsection (2) below is fulfilled.
- (2) The condition is that—
- (a) part of the trade consists of activities which relate to oil and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area, and
  - (b) part of the trade consists of activities which relate to gas and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area.
- (3) For the purposes of this section—
- (a) a petroleum licence is a licence granted under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964;
  - (b) a petroleum extraction company is a company which carries on activities under the authority of such a licence;
  - (c) a designated area is an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.
- (4) For the purposes of this section “ring fence trade” means activities which—
- (a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492 of the Taxes Act 1988 (oil extraction etc.), and
  - (b) constitute a separate trade (whether by virtue of that subsection or otherwise).

**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) For the purposes of this section—

- (a) “oil” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is not gas;
- (b) “gas” means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is gas of which the largest component by volume, measured at a temperature of 15 degrees centigrade and a pressure of one atmosphere, is methane or ethane or a combination of those gases.”

(2) In section 95(6) of the <sup>M13</sup>Finance Act 1993 (commencement of provisions about currency to be used for computations) for “94” there shall be substituted “94A ”.

**Marginal Citations**

- M12 1993 c.34.
- M13 1993 c. 34.

*Miscellaneous*

**137 Enterprise investment scheme.**

- <sup>F45</sup>(1) .....
- <sup>F45</sup>(2) .....

(3) The <sup>M14</sup>Taxation of Chargeable Gains Act 1992 shall have effect with the amendments made by that Schedule.

**Textual Amendments**

- F45 S. 137(1)(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 2](#) (with [Sch. 2](#))

**Marginal Citations**

- M14 1992 c. 12.

**138 Foreign income dividends.**

Schedule 16 to this Act (which contains provisions about foreign income dividends) shall have effect.

<sup>F46F47</sup>**139 Taxation of incapacity benefit.**

.....

**Textual Amendments**

- F46 S. 139(1)(b) repealed (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), [Sch. 6](#)
- F47 S. 139 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

*Changes to legislation: Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**F48 140 Restriction on deduction from income.**

.....

**Textual Amendments**  
**F48** S. 140 repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F49 141 Expenditure involving crime.**

.....

**Textual Amendments**  
**F49** S. 141 repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**142 Mortgage interest payable under deduction of tax: qualifying lenders.**

**F50** (1) .....

(2) The following section shall be inserted in the Taxes Act 1988 after section 376—

**“376A The register of qualifying lenders.**

- (1) The Board shall maintain, and publish in such manner as they consider appropriate, a register for the purposes of section 376(4).
- (2) If the Board are satisfied that an applicant for registration is entitled to be registered, they may register the applicant generally or in relation to any description of loan specified in the register, with effect from such date as may be so specified; and a body which is so registered shall become a qualifying lender in accordance with the terms of its registration.
- (3) The registration of any body may be varied by the Board—
  - (a) where it is general, by providing for it to be in relation to a specified description of loan, or
  - (b) where it is in relation to a specified description of loan, by removing or varying the reference to that description of loan,
 and where they do so, they shall give the body written notice of the variation and of the date from which it is to have effect.
- (4) If it appears to the Board at any time that a body which is registered under this section would not be entitled to be registered if it applied for registration at that time, the Board may by written notice given to the body cancel its registration with effect from such date as may be specified in the notice.
- (5) The date specified in a notice under subsection (3) or (4) above shall not be earlier than the end of the period of 30 days beginning with the date on which the notice is served.

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- (6) Any body which is aggrieved by the failure of the Board to register it under this section, or by the variation or cancellation of its registration, may, by notice given to the Board before the end of the period of 30 days beginning with the date on which the body is notified of the Board’s decision, require the matter to be determined by the Special Commissioners; and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal.”
- (3) Any body which is, immediately before the date on which this Act is passed, a prescribed body for the purposes of section 376 of the Taxes Act 1988 (by virtue of an order made under subsection (5) of that section) shall be entitled to be entered in the register maintained under section 376A of that Act as a qualifying lender except that if it was, immediately before that date, a qualifying lender only in relation to such description of loan as was specified in the order, it shall be entitled to be entered in the register as a qualifying lender only in relation to that description of loan.
- (4) Until such time as the Board enter any such body in the register, that body shall be deemed to have been registered in accordance with its entitlement.

.....  
**Textual Amendments**

**F50** S. 142(1) repealed (1.12.2001) by S.I. 2001/3629, arts. 1(2)(a), 109, Sch.

<sup>F51</sup> **143** .....

.....  
**Textual Amendments**

**F51** S. 143 repealed (1.5.1995 with effect as mentioned in Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), Note 2 (with Sch. 8 paras. 55(2), 57(1))

<sup>F52</sup> **144 Debts released in voluntary arrangement: relief from tax.**  
.....

.....  
**Textual Amendments**

**F52** S. 144 repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

<sup>F53</sup> **145 Relief for business donations.**  
.....

.....  
**Textual Amendments**

**F53** S. 145 repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## 146 Minor corrections.

Schedule 17 to this Act (which corrects various mistakes made in or introduced into the Taxes Act 1988) shall have effect.

## CHAPTER II

### INTEREST RATE AND CURRENCY CONTRACTS

#### Modifications etc. (not altering text)

- C1 Pt. IV Chapter II (ss. 147-177) restricted (31.7.1998) by 1988 c. 1, **Sch. 28AA para. 8(1)(b)** (as inserted (31.7.1998) by 1998 c. 36, s. 108, **Sch. 16**)
- C2 Pt. IV Chapter II (ss. 147-177) applied (29.4.1996 with effect as mentioned in s. 105(1) of the applying Act) by 1996 c. 8, s. 105, **Sch. 15 para. 25(4)** (with savings etc. in Pt. IV Chapter II (ss. 80-105))
- C3 Pt. IV Chapter II (ss. 147-177) modified (29.4.1996 with effect as mentioned in s. 105(1) of the modifying Act) by 1996 c. 8, s. 105, **Sch. 15 para. 25(2)** (with savings etc. in Pt. IV Chapter II (ss. 80-105))
- C4 Pt. IV Chapter II (ss. 147-177) excluded (29.4.1996 with effect as mentioned in s. 105(1) of the excluding Act) by 1996 c. 8, s. **101(1)** (with savings etc. in Pt. IV Chapter II (ss. 80-105))

#### *Qualifying contracts*

## 147 Qualifying contracts.

F54 .....

#### Textual Amendments

- F54 Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

## 147A Debt contracts and options to be qualifying contracts.

F55 .....

#### Textual Amendments

- F55 Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

## 148 Contracts which may become qualifying contracts.

F56 .....



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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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**Textual Amendments**

**F56** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

*Interest rate and currency contracts and options*

**149 Interest rate contracts and options.**

F57  
.....

**Textual Amendments**

**F57** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

**150 Currency contracts and options.**

F58  
.....

**Textual Amendments**

**F58** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

**150A Debt contracts and options.**

F59  
.....

**Textual Amendments**

**F59** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)},141, {Sch. 40 Pt. 3(13)}

**151 Provisions which may be included.**

F60  
.....

**Textual Amendments**

**F60** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)}, 141, {Sch. 40 Pt. 3(13)}

**152 Provisions which may be disregarded.**

F61  
.....

*Changes to legislation: Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Textual Amendments**

**F61** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)}, 141, {Sch. 40 Pt. 3(13)}

*Other basic definitions*

**153 Qualifying payments.**

**F62** .....

**Textual Amendments**

**F62** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. {83(2)}, 141, {Sch. 40 Pt. 3(13)}

**154 Qualifying companies.**

**F63** .....

**Textual Amendments**

**F63** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

*Accrual of profits and losses*

**155 Accrual of profits and losses.**

**F64** .....

**Textual Amendments**

**F64** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**156 Basis of accounting: general.**

**F65** .....

**Textual Amendments**

**F65** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## 157 Basis of accounting for linked currency options.

F66 .....

### Textual Amendments

**F66** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

## 158 Adjustments for changes in basis of accounting.

F67 .....

### Textual Amendments

**F67** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

### *Treatment of profits and losses*

## 159 Trading profits and losses.

F68 .....

### Textual Amendments

**F68** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

## 160 Non-trading profits and losses.

F69 .....

### Textual Amendments

**F69** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

### *Special cases*

## 161 Termination etc. of qualifying contracts.

F70 .....

### Textual Amendments

**F70** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

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**Modifications etc. (not altering text)**

**C5** Ss. 161-164 modified by 2010 c. 8, s. 464(6) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 1** (with Sch. 5 paras. 27, 32-34))

**162 Exchange gains and losses on currency contracts.**

F71 .....

**Textual Amendments**

**F71** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**Modifications etc. (not altering text)**

**C5** Ss. 161-164 modified by 2010 c. 8, s. 464(6) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 1** (with Sch. 5 paras. 27, 32-34))

**163 Irrecoverable payments.**

F72 .....

**Textual Amendments**

**F72** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**Modifications etc. (not altering text)**

**C5** Ss. 161-164 modified by 2010 c. 8, s. 464(6) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 1** (with Sch. 5 paras. 27, 32-34))

**164 Released payments.**

F73 .....

**Textual Amendments**

**F73** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**Modifications etc. (not altering text)**

**C5** Ss. 161-164 modified by 2010 c. 8, s. 464(6) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 1** (with Sch. 5 paras. 27, 32-34))

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*Anti-avoidance and related provisions*

**165 Transfers of value by qualifying companies.**

F74 .....

**Textual Amendments**

**F74** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**166 Transfers of value to associated companies.**

F75 .....

**Textual Amendments**

**F75** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**167 Transactions not at arm's length.**

F76 .....

**Textual Amendments**

**F76** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**168 Qualifying contracts with non-residents.**

F77 .....

**Textual Amendments**

**F77** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

**168A Qualifying contracts for unallowable purposes**

F78 .....

**Textual Amendments**

**F78** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. {83(2)}, 141, {Sch. 40 Pt. 3(13)}

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### Miscellaneous

#### 169 Insurance and mutual trading companies.

F79 .....

##### Textual Amendments

**F79** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

#### 170 Investment trusts.

F80 .....

##### Textual Amendments

**F80** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

F81 171 .....

##### Textual Amendments

**F81** S. 171 repealed (29.4.1996 with effect as mentioned in s. 105(1) of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**, Note (with savings etc. in Pt. IV Chapter II (ss. 80-105))

#### 172 Partnerships involving qualifying companies.

F82 .....

##### Textual Amendments

**F82** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

### Supplemental

#### 173 Prevention of double charging etc.

F83 .....

##### Textual Amendments

**F83** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

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## 174 Prevention of deduction of tax.

F84 .....

### Textual Amendments

**F84** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

## 175 Transitional provisions.

F85 .....

### Textual Amendments

**F85** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

## 176 Minor and consequential amendments.

F86(1) .....

F87(2) .....

### Textual Amendments

**F86** S. 176(1) repealed (1.5.1995 with effect as mentioned in Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2 (with Sch. 8 paras. 55(2), 57(1))

**F87** S. 176(2) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

## 177 Interpretation of Chapter II.

F88 .....

### Textual Amendments

**F88** Ss. 147-175, 177 repealed (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), ss. 83(2), 141, **Sch. 40 Pt. 3(13)**

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## CHAPTER III

### MANAGEMENT: SELF-ASSESSMENT ETC.

#### *Income tax and capital gains tax*

#### **178 Personal and trustee’s returns.**

(1) For subsection (1) of section 8 of the Management Act (personal return) there shall be substituted the following subsections—

“(1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, he may be required by a notice given to him by an officer of the Board—

- (a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may reasonably be required in pursuance of the notice, and
- (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

(1A) The day referred to in subsection (1) above is—

- (a) the 31st January next following the year of assessment, or
- (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.

(1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under this section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, loss or charge for the period in respect of which the statement is made.

(1C) In subsection (1B) above “relevant statement” means a statement which, as respects the partnership, falls to be made under section 12AB of this Act for a period which includes, or includes any part of, the year of assessment or its basis period.”

(2) For subsection (1) of section 8A of the Management Act (trustee’s return) there shall be substituted the following subsections—

“(1) For the purpose of establishing the amounts in which a trustee of a settlement, and the settlors and beneficiaries, are chargeable to income tax and capital gains tax for a year of assessment, an officer of the Board may by a notice given to the trustee require the trustee—

- (a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may reasonably be required in pursuance of the notice, and
- (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required;

and a notice may be given to any one trustee or separate notices may be given to each trustee or to such trustees as the officer thinks fit.



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- (1A) The day referred to in subsection (1) above is—
- (a) the 31st January next following the year of assessment, or
  - (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.”

## 179 Returns to include self-assessment.

For section 9 of the Management Act there shall be substituted the following section—

### “9 Returns to include self-assessment.

- (1) Subject to subsection (2) below, every return under section 8 or 8A of this Act shall include an assessment (a self-assessment) of the amounts in which, on the basis of the information contained in the return, the person making the return is chargeable to income tax and capital gains tax for the year of assessment.
- (2) A person shall not be required to comply with subsection (1) above if he makes and delivers his return for a year of assessment—
  - (a) on or before the 30th September next following the year, or
  - (b) where the notice under section 8 or 8A of this Act is given after the 31st July next following the year, within the period of two months beginning with the day on which the notice is given.
- (3) Where, in making and delivering a return, a person does not comply with subsection (1) above, an officer of the Board shall if subsection (2) above applies, and may in any other case—
  - (a) make the assessment on his behalf on the basis of the information contained in the return, and
  - (b) send him a copy of the assessment so made;and references in the following provisions of this Act to a person’s self-assessment include references to an assessment made on a person’s behalf under this subsection.
- (4) Subject to subsection (5) below—
  - (a) at any time before the end of the period of nine months beginning with the day on which a person’s return is delivered, an officer of the Board may by notice to that person so amend that person’s self-assessment as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
  - (b) at any time before the end of the period of twelve months beginning with the filing date, a person may by notice to an officer of the Board so amend his self-assessment as to give effect to any amendments to his return which he has notified to such an officer.
- (5) No amendment of a self-assessment may be made under subsection (4) above at any time during the period—
  - (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the return, and
  - (b) ending with the day on which the officer’s enquiries into the return are completed.

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(6) In this section and section 9A of this Act “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.”

**F89 180** .....

**Textual Amendments**

**F89** S. 180 repealed (11.5.2001 with effect as mentioned in s. 88, Sch. 29 of the repealing Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(13)**, Note

*Corporation tax*

**F90 181** .....

**Textual Amendments**

**F90** S. 181 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

**F91 182** .....

**Textual Amendments**

**F91** S. 182 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

**F92 183** .....

**Textual Amendments**

**F92** S. 183 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Partnerships*

**184 Partnership return.**

After section 12 of the Management Act there shall be inserted the following section—

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## “ Partnerships

### 12AA Partnership return.

- (1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating—
  - (a) the assessment to income tax for a year of assessment, and
  - (b) the assessment to corporation tax for any period,of each partner who is liable to be so assessed, an officer of the Board may act under subsection (2) or (3) below (or both).
- (2) An officer of the Board may by a notice given to the partners require such person as is identified in accordance with rules given with the notice—
  - (a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may reasonably be so required.
- (3) An officer of the Board may by notice given to any partner require the partner—
  - (a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may reasonably be so required;and a notice may be given to any one partner or separate notices may be given to each partner or to such partners as the officer thinks fit.
- (4) In the case of a partnership which includes one or more individuals, the day specified in a notice under subsection (2) or (3) above shall not be earlier than—
  - (a) the 31st January next following the year of assessment concerned, or
  - (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.
- (5) In the case of a partnership which includes one or more companies, the day specified in a notice under subsection (2) or (3) above shall not be earlier than—
  - (a) the first anniversary of the end of the relevant period, or
  - (b) where the notice under this section is given more than nine months after the end of the relevant period, the last day of the period of three months beginning with the day on which the notice is given;and the relevant period for the purposes of this subsection and subsection (6) below is the period in respect of which the return is required.
- (6) Every return under this section shall include—
  - (a) a declaration of the name, residence and tax reference of each of the persons who have been partners—
    - (i) for the whole of the relevant period, or

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- (ii) for any part of that period,  
and, in the case of a person falling within sub-paragraph (ii) above, of the part concerned; and
  - (b) a declaration by the person making the return to the effect that it is to the best of his knowledge correct and complete.
- (7) Every return under this section shall also include, if the notice under subsection (2) or (3) above so requires—
- (a) with respect to any disposal of partnership property during a period to which any part of the return relates, the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
  - (b) with respect to any acquisition of partnership property, the particulars required under section 12(2) of this Act.
- (8) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (9) Notices under this section may require different information, accounts and statements in relation to different descriptions of partnership.
- (10) In this section “residence”, in relation to a company, means its registered office.”

## **185 Partnership return to include partnership statement.**

After section 12AA of the Management Act there shall be inserted the following section—

### **“12AB Partnership return to include partnership statement.**

- (1) Every return under section 12AA of this Act shall include a statement (a partnership statement) of the following amounts, namely—
- (a) in the case of each period of account ending within the period in respect of which the return is made—
    - (i) the amount of income or loss from each source which, on the basis of the information contained in the return, has accrued to or has been sustained by the partnership for that period, and
    - (ii) the amount of each charge which, on that basis, was a charge on the income of the partnership for that period; and
  - (b) in the case of each such period and each of the partners, the amount which, on that basis, is equal to his share of that income, loss or charge.
- (2) Subject to subsection (3) below—
- (a) at any time before the end of the period of nine months beginning with the day on which a person’s return is delivered, an officer of the Board may by notice to that person so amend that person’s partnership statement as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
  - (b) at any time before the end of the period of twelve months beginning with the filing date, a person may by notice to an officer of the Board so

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amend his partnership statement as to give effect to any amendments to his return which he has notified to such an officer.

(3) No amendment of a partnership statement may be made under subsection (2) above at any time during the period—

- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the return, and
- (b) ending with the day on which the officer’s enquiries into the return are completed.

(4) Where a partnership statement is amended under subsection (2) above, the officer shall by notice to the partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.

(5) In this section—

“filing date” means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act;

“period of account”, in relation to a partnership, means any period for which accounts are drawn up.”

<sup>F93</sup> **186** .....

**Textual Amendments**

**F93** S. 186 repealed (11.5.2001 with effect as mentioned in s. 88, Sch. 29 of the repealing Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(13)**, Note

*Enquiries: procedure*

<sup>F94</sup> **187 Power to call for documents.**

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**Textual Amendments**

**F94** S. 187 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(c)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

<sup>F95</sup> **188** .....

**Textual Amendments**

**F95** S. 188 repealed (11.5.2001 with effect as mentioned in s. 88, Sch. 29 of the repealing Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(13)**, Note

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F96 189 .....

**Textual Amendments**

**F96** S. 189 repealed (11.5.2001 with effect as mentioned in s. 88, Sch. 29 of the repealing Act) by 2001 c. 9, s. 110, Sch. 33 Pt. II(13), Note

*Determinations and assessments to protect revenue*

**190 Determination of tax where no return delivered.**

After section 28B of the Management Act there shall be inserted the following section—

**“28C Determination of tax where no return delivered.**

- (1) Where—
  - (a) a notice has been given to any person under section 8, 8A or 11 of this Act (the relevant section), and
  - (b) the required return is not delivered on or before the filing date,
 an officer of the Board may make a determination of the amounts in which, to the best of his information and belief, the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment or (as the case may be) is chargeable to corporation tax for the accounting period.
- (2) Notice of any determination under this section shall be served on the person in respect of whom it is made and shall state the date on which it is issued.
- (3) Until such time (if any) as it is superseded by a self-assessment made under section 9 or 11AA of this Act (whether by the taxpayer or an officer of the Board) on the basis of information contained in a return under the relevant section, a determination under this section shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if it were such a self-assessment.
- (4) Where—
  - (a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under this section; and
  - (b) before those proceedings are concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3) above,
 those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than—
  - (a) before the end of the period of five years beginning with the filing date;
 or

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(b) in the case of such a self-assessment, before the end of the period of twelve months beginning with the date of the determination.

(6) In this section “the filing date” means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.”

## **191 Assessment where loss of tax discovered.**

(1) For section 29 of the Management Act there shall be substituted the following section—

### **“29 Assessment where loss of tax discovered.**

(1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a chargeable period—

- (a) that any profits which ought to have been assessed to tax have not been assessed, or
- (b) that an assessment to tax is or has become insufficient, or
- (c) that any relief which has been given is or has become excessive,

the officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.

(2) Where—

- (a) the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, and
- (b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,

the taxpayer shall not be assessed under that subsection in respect of the chargeable period there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

(3) Where the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, he shall not be assessed under subsection (1) above—

- (a) in respect of the chargeable period mentioned in that subsection; and
- (b) in the case of a return under section 8 or 8A, in the same capacity as that in which he made and delivered the return,

unless one of the two conditions mentioned below is fulfilled.

(4) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf.

(5) The second condition is that at the time when an officer of the Board—

- (a) ceased to be entitled to give notice of his intention to enquire into the taxpayer’s return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period; or

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- (b) informed the taxpayer that he had completed his enquiries into that return,
- the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (6) For the purposes of subsection (5) above, information is made available to an officer of the Board if—
- (a) it is contained in the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period (the return), or in any accounts, statements or documents accompanying the return;
  - (b) it is contained in any claim made as regards the relevant chargeable period by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
  - (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer, whether in pursuance of a notice under section 19A of this Act or otherwise; or
  - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above—
    - (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
    - (ii) are notified in writing by the taxpayer to an officer of the Board.
- (7) In subsection (6) above—
- (a) any reference to the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period includes—
    - (i) a reference to any return of his under that section for either of the two immediately preceding chargeable periods; and
    - (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to any return with respect to the partnership under section 12AA of this Act for the relevant chargeable period or either of those periods; and
  - (b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.
- (8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.
- (9) Any reference in this section to the relevant chargeable period is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the chargeable period mentioned in that subsection; and



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- (b) in the case of the situation mentioned in paragraph (c) of that subsection, the chargeable period in respect of which the claim was made.
- (10) In this section “profits”—
- (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains, and
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.”
- (2) This section, so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

### *Payment of tax*

## **192 Payments on account of income tax.**

After Part V of the Management Act there shall be inserted the following section—

### **“PART VA**

#### **PAYMENT OF TAX**

##### **59A Payments on account of income tax.**

- (1) This section applies to any person (the taxpayer) as regards a year of assessment if as regards the immediately preceding year—
- (a) he has been assessed to income tax under section 9 of this Act in any amount, and
  - (b) that amount (the assessed amount) exceeds the amount of any income tax which has been deducted at source, and
  - (c) the amount of the excess (the relevant amount) is not less than such amount as may be prescribed by regulations made by the Board, and
  - (d) the proportion which the relevant amount bears to the assessed amount is not less than such proportion as may be so prescribed.
- (2) Subject to subsection (3) below, the taxpayer shall make two payments on account of his liability to income tax for the year of assessment—
- (a) the first on or before the 31st January in that year, and
  - (b) the second on or before the next following 31st July;
- and, subject to subsection (4) below, each of those payments on account shall be of an amount equal to 50 per cent. of the relevant amount.
- (3) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating—
- (a) his belief that he will not be assessed to income tax for that year, or that the amount in which he will be so assessed will not exceed the amount of income tax deducted at source, and
  - (b) his grounds for that belief,

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each of the payments on account shall not be, and shall be deemed never to have been, required to be made.

- (4) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating—
- (a) his belief that the amount in which he will be assessed to income tax for that year will exceed the amount of income tax deducted at source by a stated amount which is less than the relevant amount, and
  - (b) his grounds for that belief,
- the amount of each of the payments on account required to be made shall be, and shall be deemed always to have been, equal to 50 per cent. of the stated amount.
- (5) Where the taxpayer makes a claim under subsection (3) or (4) above, there shall be made all such adjustments, whether by the repayment of amounts paid on account or otherwise, as may be required to give effect to the provisions of that subsection.
- (6) Where the taxpayer fraudulently or negligently makes any incorrect statement in connection with a claim under subsection (3) or (4) above, he shall be liable to a penalty not exceeding the difference between—
- (a) the amount which would have been payable on account if he had made a correct statement, and
  - (b) the amount of the payment on account (if any) made by him.
- (7) The provisions of the Income Tax Acts as to the recovery of income tax shall apply to an amount falling to be paid on account of tax in the same manner as they apply to an amount of tax.
- (8) In this section any reference to income tax deducted at source is a reference to—
- (a) income tax deducted or treated as deducted from any income or treated as paid on any income, or
  - (b) any amount which, in respect of the year of assessment, is to be deducted at source under section 203 of the principal Act in a subsequent year, or is a tax credit to which section 231 of that Act applies.”

### **193 Payment of income tax and capital gains tax.**

After section 59A of the Management Act there shall be inserted the following section—

#### **“59B Payment of income tax and capital gains tax.**

- (1) Subject to subsection (2) below, the difference between—
- (a) the amount of income tax and capital gains tax contained in a person’s self-assessment under section 9 of this Act for any year of assessment, and
  - (b) the aggregate of any payments on account made by him in respect of that year (whether under section 59A of this Act or otherwise) and any income tax which in respect of that year has been deducted at source,

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shall be payable by him or (as the case may be) repayable to him as mentioned in subsection (3) or (4) below.

- (2) The following, namely—
- (a) any amount which, in the year of assessment, is deducted at source under section 203 of the principal Act in respect of a previous year, and
  - (b) any amount which, in respect of the year of assessment, is to be deducted at source under that section in a subsequent year, or is a tax credit to which section 231 of that Act applies,
- shall be respectively deducted from and added to the aggregate mentioned in subsection (1)(b) above.
- (3) In a case where the person—
- (a) gave the notice required by section 7 of this Act within six months from the end of the year of assessment, but
  - (b) was not given notice under section 8 or 8A of this Act until after the 31st October next following that year,
- the difference shall be payable or repayable at the end of the period of three months beginning with the day on which the notice under section 8 or 8A was given.
- (4) In any other case, the difference shall be payable or repayable on or before the 31st January next following the year of assessment.
- (5) Where a person's self-assessment under section 9 of this Act is amended under section 9(4), section 28A(2), (3) or (4) or section 30B(2) of this Act, any amount of tax which is payable or repayable by virtue of the amendment shall, subject to section 55(6) and (9) of this Act, be payable or (as the case may be) repayable—
- (a) in a case where notice of the amendment is given after, or less than 30 days before, the day given by subsection (3) or (4) above, on or before the day following the end of the period of 30 days beginning with the day on which notice is given; and
  - (b) in any other case, on or before the day given by subsection (3) or (4) above.
- (6) Any amount of income tax or capital gains tax which is payable by virtue of an assessment made under section 29 of this Act shall be payable on the day following the end of the period of 30 days beginning with the day on which the notice of assessment is given.
- (7) In this section any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.”

## **194 Surcharges on unpaid income tax and capital gains tax.**

After section 59B of the Management Act there shall be inserted the following section—

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**“59C Surcharges on unpaid income tax and capital gains tax.**

- (1) This section applies in relation to any income tax or capital gains tax which has become payable by a person (the taxpayer) in accordance with section 55 or 59B of this Act.
- (2) Where any of the tax remains unpaid on the day following the expiry of 28 days from the due date, the taxpayer shall be liable to a surcharge equal to 5 per cent. of the unpaid tax.
- (3) Where any of the tax remains unpaid on the day following the expiry of 6 months from the due date, the taxpayer shall be liable to a further surcharge equal to 5 per cent. of the unpaid tax.
- (4) Where the taxpayer has incurred a penalty under section 7, 93(5) or 95 of this Act, no part of the tax by reference to which that penalty was determined shall be regarded as unpaid for the purposes of subsection (2) or (3) above.
- (5) An officer of the Board may impose a surcharge under subsection (2) or (3) above; and notice of the imposition of such a surcharge—
  - (a) shall be served on the taxpayer, and
  - (b) shall state the day on which it is issued and the time within which an appeal against the imposition of the surcharge may be brought.
- (6) A surcharge imposed under subsection (2) or (3) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the end of the period of 30 days beginning with the day on which the surcharge is imposed until payment.
- (7) An appeal may be brought against the imposition of a surcharge under subsection (2) or (3) above within the period of 30 days beginning with the date on which the surcharge is imposed.
- (8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (7) above as they have effect in relation to an appeal against an assessment to tax.
- (9) On an appeal under subsection (7) above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
  - (a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not paying the tax, set aside the imposition of the surcharge; or
  - (b) if it does not so appear to them, confirm the imposition of the surcharge.
- (10) Inability to pay the tax shall not be regarded as a reasonable excuse for the purposes of subsection (9) above.
- (11) The Board may in their discretion—
  - (a) mitigate any surcharge under subsection (2) or (3) above, or
  - (b) stay or compound any proceedings for the recovery of any such surcharge,
 and may also, after judgment, further mitigate or entirely remit the surcharge.
- (12) In this section—

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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“the due date”, in relation to any tax, means the date on which the tax becomes due and payable;

“the period of default”, in relation to any tax which remained unpaid after the due date, means the period beginning with that date and ending with the day before that on which the tax was paid.”

<sup>F97</sup> **195** .....

**Textual Amendments**

**F97** S. 195 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Miscellaneous and supplemental*

**196 Management: other amendments.**

Schedule 19 to this Act (which makes other amendments relating to the management of tax) shall have effect.

<sup>F98</sup> **197** .....

**Textual Amendments**

**F98** S. 197 repealed (31.7.1998 with effect as mentioned in the Note to Sch. 27 Pt. III(28) of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

<sup>F99</sup> **198** .....

**Textual Amendments**

**F99** S. 198 repealed and superseded (1.5.1995) by 1995 c. 4, ss. 116, 162, Sch. 21, **Sch. 29 Pt. VIII(14)**

**199 Interpretation and commencement of Chapter III.**

- (1) In this Chapter “the Management Act” means the <sup>M15</sup>Taxes Management Act 1970.
- (2) Unless the contrary intention appears, this Chapter—
  - (a) so far as it relates to income tax and capital gains tax, has effect as respects the year 1996-97 and subsequent years of assessment, and
  - (b) so far as it relates to corporation tax, has effect as respects accounting periods ending on or after the appointed day.
- (3) For the purposes of this Chapter the appointed day is such day, not earlier than 1st April 1996, as the Treasury may by order appoint.

*Changes to legislation: Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Subordinate Legislation Made**

**P2** [S. 199\(3\)](#) power exercised: 1.7.1999 appointed by [S.I. 1998/3173](#), [art. 2](#)

**Marginal Citations**

**M15** [1970 c.9.](#)

## CHAPTER IV

### CHANGES FOR FACILITATING SELF-ASSESSMENT

#### *Assessment under Cases I and II of Schedule D*

**<sup>F100</sup>200 Assessment on current year basis.**

.....

**Textual Amendments**

**F100** [Ss. 200-208](#) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>201 Basis of assessment at commencement.**

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**Textual Amendments**

**F100** [Ss. 200-208](#) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>202 Change of basis period.**

.....

**Textual Amendments**

**F100** [Ss. 200-208](#) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>203 Conditions for such a change.**

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>204 Basis of assessment on discontinuance.**

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**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>205 Overlap profits and overlap losses.**

.....

.....

**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Assessment under Cases III to VI of Schedule D*

**<sup>F100</sup>206 Basis of assessment under Case III.**

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**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>207 Basis of assessment under Cases IV and V.**

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**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F100</sup>208 Basis of assessment under Case VI.**

.....

*Changes to legislation: Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Textual Amendments**

**F100** Ss. 200-208 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Loss relief*

**F101 209 Loss relief: general.**

.....

**Textual Amendments**

**F101** S. 209 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**Modifications etc. (not altering text)**

**C6** S. 209 amended (*retrospectively*) by [1995 c. 4](#), s. **118**

**F102 210 Relief for losses on unquoted shares.**

.....

**Textual Amendments**

**F102** S. 210 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**Modifications etc. (not altering text)**

**C7** S. 210 amended (*retrospectively*) by [1995 c. 4](#), s. **119**

*Capital allowances*

**211 Income tax allowances and charges in taxing a trade etc.**

**F103**(1) .....

(2) Subject to section 214(7) below, this section and sections 212 to 214 below, in their application to trades, professions or vocations set up and commenced before 6th April 1994 or employments or offices entered into before that date, have effect as respects the year 1997-98 and subsequent years of assessment.

**Textual Amendments**

**F103** S. 211(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by [2001 c. 2](#), s. 580, [Sch. 4](#)

**F104 212** .....



**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F104** S. 212 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

**F105** **213** .....

**Textual Amendments**

**F105** S. 213 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

**214 Amendments of other enactments.**

- (1) In the Taxes Act 1988, the following provisions shall cease to have effect, namely—
- (a) in section 96 (farming and market gardening: relief for fluctuating profits), in subsection (7), paragraph (b);
  - (b) section 383 (extension of right to set-off to capital allowances);
  - (c) in section 384 (restrictions on right of set-off), in subsection (1), the words “(including any amount in respect of capital allowances which, by virtue of section 383, is to be treated as a loss)”, and in subsection (2), the words “or an allowance in respect of expenditure incurred”, paragraph (b) and the word “or” immediately preceding that paragraph;
  - (d) in section 388 (carry-back of terminal losses), in subsection (6), paragraphs (b) and (d) and the word “and” immediately preceding paragraph (d), and in subsection (7), the words from the beginning to “an earlier year: and”; and
  - (e) in section 389 (supplementary provisions relating to carry-back of terminal losses), subsections (5) to (7).

**F106**(2) .....

**F107**(3) .....

**F108**(4) .....

**F108**(5) .....

**F108**(6) .....

- (7) Subsection (1)(a) above—
- (a) except in its application to a trade set up and commenced on or after 6th April 1994, has effect where the first of the two years of assessment to which the claim relates is the year 1996-97 or any subsequent year, and
  - (b) in its application to a trade so set up and commenced, has effect where the first of those two years of assessment is the year 1995-96 or any subsequent year.

**Textual Amendments**

**F106** S. 214(2) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with **Sch. 2**)

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- F107** S. 214(3) repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with **Sch. 2**)
- F108** S. 214(4)-(6) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, **Sch. 4**

*Miscellaneous and supplemental*

**F109** 215 Treatment of partnerships.

.....

**Textual Amendments**

- F109** S. 215 repealed (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with **Sch. 2 Pts. 1, 2**)

**Modifications etc. (not altering text)**

- C8** S. 215 amended (*retrospectively*) by 1995 c. 4, s. 117

**216 Effect of change in ownership of trade, profession or vocation.**

**F110**(1) .....

- (2) Subsections (3) to (5) of that section and, in subsection (6) of that section, the words from “and where” to the end shall cease to have effect.
- (3) The following provisions of that Act shall cease to have effect, namely—
  - (a) in section 96 (farming and market gardening: relief for fluctuating profits), in subsection (6) the words from “except that” to the end;
  - (b) in section 380 (set-off against general income), subsection (3);
  - (c) in section 381 (further relief in early years of trade), subsection (6);
  - (d) in section 384 (restrictions on right of set-off), subsection (5);
  - (e) in section 385 (carry-forward against subsequent profits), subsections (2) and (5);
  - (f) in section 386 (carry-forward where business transferred to a company), subsection (4); and
  - (g) in section 389 (supplementary provisions relating to carry-back of terminal losses), subsection (3).

**F111**(4) .....

- (5) Subsection (3)(a) above—
  - (a) except in its application to a trade set up and commenced on or after 6th April 1994, has effect where the first of the two years of assessment to which the claim relates is the year 1996-97 or any subsequent year, and
  - (b) in its application to a trade so set up and commenced, has effect where the first of those two years of assessment is the year 1995-96 or any subsequent year.

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**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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**Textual Amendments**

- F110** S. 216(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))
- F111** S. 216(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**<sup>F112</sup>217 Double taxation relief in respect of overlap profits.**

.....

**Textual Amendments**

- F112** S. 217 repealed (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 1](#) (with [Sch. 9](#) paras. 1-9, 22)

**218 Commencement, transitional provisions and savings.**

- (1) Unless the contrary intention appears, this Chapter—
- (a) except in its application to a trade set up and commenced on or after 6th April 1994 or income from a source arising to a person on or after that date, has effect as respects the year 1996-97 and subsequent years of assessment, and
  - (b) in its application to a trade so set up and commenced or income from a source so arising, has effect as respects the year 1994-95 and subsequent years of assessment.

[<sup>F113</sup>(1A) In a case where—

- (a) a trade is set up and commenced by a company, and
  - (b) it is not set up and commenced before 6th April 1994,
- sections 213(4) and (8) and 214(4) and (6) have effect only if it is set up and commenced on or after 6th April 1995.]
- (2) Any reference in subsection (1) above to a trade includes a reference to a profession, vocation, employment or office.
  - (3) Where the first underwriting year of the underwriting business of a member of Lloyd's is the year 1994, subsection (1) above shall have effect in relation to that business as if it had been set up and commenced on 6th April 1994.
  - (4) Where, as respects income from any source, income tax is to be charged under Case IV or V of Schedule D by reference to the amounts of income received in the United Kingdom, the source shall be treated for the purposes of subsection (1) above as arising on the date on which the first amount of income is so received.
  - (5) This Chapter shall have effect subject to the transitional provisions and savings contained in Schedule 20 to this Act.

**Changes to legislation:** *Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### Textual Amendments

**F113** S. 218(1A) inserted (*retrospectively*) by 1995 c. 4, s. 102(2)

## CHAPTER V

### LLOYD’S UNDERWRITERS: CORPORATIONS ETC.

### Modifications etc. (not altering text)

**C9** Pt. IV Chapter V (ss. 219-230) modified (1.12.1997) by S.I. 1997/2681, reg. 3(2)(a)

**C10** Pt. IV Chapter V (ss. 219-230) applied (1.5.1995) by 1995 c. 4, s. 129(4)(6)

Pt. IV Chapter V (ss. 219-230) applied (1.5.1995) by 1995 c. 4, s. 127(16)(a)(19)

### *Main provisions*

#### 219 Taxation of profits.

- (1) Corporation tax for any accounting period on the profits arising from a corporate member’s underwriting business shall be computed on the profits of that accounting period.
- (2) As respects the profits arising to a corporate member for any accounting period directly from its membership of one or more syndicates, or from assets forming part of a [<sup>F114</sup>premium] trust fund—
  - (a) the aggregate of those profits shall be computed for tax purposes under [<sup>F115</sup>Part 3 of the Corporation Tax Act 2009] ; and
  - (b) accordingly, no part of those profits shall be computed for those purposes [<sup>F116</sup>otherwise than under Part 3 of the Corporation Tax Act 2009] .
- (3) <sup>F117</sup>... The profits arising to a corporate member for any accounting period—
  - (a) from assets forming part of an ancillary trust fund; or
  - (b) from assets employed by it in, or in connection with, its underwriting business, shall be computed for tax purposes under [<sup>F118</sup>Part 3 of the Corporation Tax Act 2009] if, and to the extent that, they do not fall to be computed for those purposes [<sup>F119</sup>otherwise than under Part 3 of that Act] .

<sup>F120</sup>(4) .....

<sup>F121</sup>(4A) .....

<sup>F122</sup>(4B) .....

<sup>F123</sup>(4C) .....

<sup>F124</sup>(5) .....

### Textual Amendments

**F114** Words in s. 219(2)(4)(4B) substituted (1.12.2001) by S.I. 2001/3629, art. 87(a)

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- F115** Words in s. 219(2)(a) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 392\(2\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F116** Words in s. 219(2)(b) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 392\(2\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F117** Words in s. 219(3) omitted (21.7.2009) (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 14 para. 18\(a\)](#)
- F118** Words in s. 219(3) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 392\(3\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F119** Words in s. 219(3) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 392\(3\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F120** S. 219(4) omitted (21.7.2009) (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 14 para. 18\(b\)](#)
- F121** S. 219(4A) omitted (21.7.2009) (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 14 para. 18\(b\)](#)
- F122** S. 219(4B) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 56](#)
- F123** S. 219(4C) omitted (21.7.2009) (with effect in accordance with Sch. 14 para. 31 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 14 para. 18\(b\)](#)
- F124** S. 219(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

**Modifications etc. (not altering text)**

- C11** S. 219 applied by 2010 c. 8, s. 454(a) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 5 para. 1](#) (with [Sch. 5 paras. 27, 32-34](#)))

**220 Accounting period in which certain profits or losses arise.**

- (1) For the purposes of section 219 above and all other purposes of the Corporation Tax Acts, the profits or losses arising to a corporate member in any accounting period directly from its membership of one or more syndicates, or from assets forming part of a [<sup>F125</sup>premium] trust fund, shall be taken to be—
- (a) if two underwriting years each fall partly within that period, the aggregate of the apportioned parts of those profits or losses in those years; and
  - (b) if a single underwriting year falls wholly or partly within that period, those profits or losses or (as the case may be) the apportioned part of those profits or losses in that year.
- (2) Subject to the provisions of this Chapter, for the purposes of subsection (1) above and all other purposes of the Corporation Tax Acts—
- (a) the profits or losses arising to a corporate member in any underwriting year directly from its membership of one or more syndicates shall be taken to be those of any previous year or years which are declared in that year; and
  - [<sup>F126</sup>(b) the profits or losses arising to a corporate member from assets forming part of a premium trust fund which shall be taken to be profits or losses of any underwriting year are—
    - (i) those allocated under the rules or practice of Lloyd’s to any previous year or years the profits or losses of which are declared in that year, and
    - (ii) those arising in that year and not so allocated to any previous year or years.]

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(3) In this section “apportioned part”, in relation to the profits or losses of an underwriting year, means a part apportioned under [<sup>F127</sup>section 52 of the Corporation Tax Act 2009] .

**Textual Amendments**

**F125** Words in s. 220(1)(2)(b) substituted (1.12.2001) by S.I. 2001/3629, **art. 87(b)**

**F126** S. 220(2)(b) substituted (1.7.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Finance Act 1994, Section 220 \(Amendment\) Regulations 2007 \(S.I. 2007/1616\), regs. 1\(1\), 2](#)

**F127** Words in s. 220(3) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 393](#) (with [Sch. 2 Pts. 1, 2](#))

<sup>F128</sup>**221 Assessment and collection of tax.**

.....

**Textual Amendments**

**F128** [S. 221](#) repealed (20.7.2005 for specified purposes, 1.1.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 45\(4\)\(8\)\(9\), Sch. 11 Pt. 2\(11\)](#); S.I. 2005/3337, [art. 2](#)

*Trust funds*

**222 [<sup>F129</sup>Premium] trust funds.**

- (1) For the purposes of the Corporation Tax Acts—
  - (a) a corporate member shall be treated as absolutely entitled as against the trustees to the assets forming part of a [<sup>F129</sup>premium] trust fund belonging to it; and
  - (b) where a deposit required by a regulatory authority in a country or territory outside the United Kingdom is paid out of such a fund, the money so paid shall be treated as still forming part of that fund.
- (2) Where an asset forms part of a corporate member’s [<sup>F129</sup>premium] trust fund at the beginning of any underwriting year, for the purposes of the Corporation Tax Acts—
  - (a) the trustees of the fund shall be treated as acquiring it on that day, and
  - (b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.
- (3) Where an asset forms part of a corporate member’s [<sup>F129</sup>premium] trust fund at the end of any underwriting year, for the purposes of the Corporation Tax Acts—
  - (a) the trustees of the fund shall be treated as disposing of it on that day, and
  - (b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.

- <sup>F130</sup>(4) .....
- <sup>F130</sup>(5) .....
- <sup>F131</sup>(6) .....
- <sup>F131</sup>(7) .....

**Changes to legislation:** Finance Act 1994, Part IV is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

- F129** Words in s. 222(1)(a)(2)(3) and sidenote substituted (1.12.2001) by S.I. 2001/3629, **art. 87(c)**
- F130** S. 222(4)(5) repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1), Sch. 18 Pt. VI(10), Note 1 of the repealing Act) by 1997 c. 16, s. 113, **Sch. 18 Pt. VI(10)**; S.I. 1997/991, **art. 2**
- F131** S. 222(06)(07) repealed (29.4.1996 with effect as mentioned in s. 154(9) of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(18)**, Note

**223 Ancillary trust funds.**

A corporate member shall be treated for the purposes of the Corporation Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund belonging to it.

**Modifications etc. (not altering text)**

- C12** S. 223 applied (with modifications) (1.12.1997) by S.I. 1997/2681, **reg. 5(1)**

*Other special cases*

<sup>F132</sup>**224** .....

**Textual Amendments**

- F132** S. 224 repealed (28.7.2000 with effect as mentioned in s. 107(12)(c) of the repealing Act) by 2000 c. 17, ss. 107(11), 156, **Sch. 40 Pt. II(9)**

**225 Stop-loss and quota share insurance.**

- (1) In computing for the purposes of corporation tax the profits of a corporate member’s underwriting business, each of the following shall be deductible as an expense, namely—
  - (a) any premium payable by it under a stop-loss insurance, and any repayment of insurance money paid to it under such an insurance; and
  - [<sup>F133</sup>(b) where an amount is payable by it under a quota share contract—
    - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
    - (ii) if the contract does not take effect, the amount so payable under the contract.]
- (2) Subject to subsection (3) below, the following provisions apply where any insurance money is payable to a corporate member under a stop-loss insurance in respect of a loss in its underwriting business—
  - (a) if the underwriting year in which the loss is declared falls within two or more accounting periods, the apportioned part of the insurance money shall be

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treated as a trading receipt in computing the profits arising from the business for each of those periods; and

- (b) if the underwriting year in which the loss is declared falls within a single accounting period, the insurance money shall be treated as a trading receipt in computing the profits arising from the business for that period.

(3) Where, as respects the payment of any such insurance money as is mentioned in subsection (2) above—

- (a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for any of the accounting periods or (as the case may be) the accounting period is precluded by section 34 of the Management Act (ordinary time limit), and
- (b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 ( [F134]loss of tax brought about carelessly or deliberately] ) of that Act,

that subsection shall have effect in relation to the apportioned part of that insurance money or (as the case may be) that insurance money as if, instead of that accounting period, it referred to the accounting period in which the payment is made.

[F135](3A) Where the amount payable by a corporate member under a quota share contract is less than the declared amount—

- (a) if the underwriting year in which the contract takes effect falls within a single accounting period, the difference between the two amounts (“the surplus”) shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for that period, and
- (b) if that underwriting year falls within two or more accounting periods, the apportioned part of the surplus shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business for each of those periods.

(3B) Where a corporate member has entered a quota share contract, any amount paid by it to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated, for the purposes of subsections (1)(b)(i) and (3A) above, as an amount payable under the contract at that time.]

[F136](3C) Subsection (3D) applies to any premium which is payable by a corporate member under a stop-loss insurance taken out in respect of its underwriting business and in relation to which section 220(2)(a) does not apply.

(3D) The premium is to be treated for the purposes of the Corporation Tax Acts—

- (a) as an amount that arises to the member directly from its membership of the syndicate or syndicates in relation to the activities of which the stop-loss insurance was taken out, and
- (b) as if it were payable in the underwriting year in which the profits or losses arising to the member directly from its membership of the syndicate or syndicates concerned are declared.

(3E) If a premium is payable under a stop-loss insurance in respect of two or more underwriting years, the amount of the premium treated, as a result of subsection (3D) (b), as payable in each of those years is to be determined on a just and reasonable basis.

(3F) If—

- (a) a corporate member enters into a quota share contract, and



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(b) the main purpose, or one of the main purposes, of entering into it was to secure that amounts payable by the member under the contract were not dealt with on the basis set out in subsection (3G),

the contract is treated for the purposes of subsections (3C) to (3E) as if it were a stop-loss insurance (and, accordingly, the amounts payable under it are treated for those purposes as premiums).

(3G) Amounts are dealt with on the basis set out in this subsection if they are treated as payable in the underwriting year in which the profits or losses arising to a corporate member directly from its membership of one or more syndicates are declared.]

[<sup>F137</sup>(4) In this section—

“apportioned part”, in relation to any insurance money or other amount, means a part apportioned under [<sup>F138</sup>section 52 of the Corporation Tax Act 2009] ;

“cash call” means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd’s, is made to a corporate member by the agent of a syndicate of which it is a member;

“quota share contract” means any contract between a corporate member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s; and
- (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which it is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).]

#### Textual Amendments

**F133** S. 225(1)(b) substituted (with effect as mentioned in s. 86(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 32 para. 7**

**F134** Words in s. 225(3)(b) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 64**; S.I. 2009/403, art. 2(2) (with art. 10)

**F135** S. 225(3A)(3B) inserted (with effect as mentioned in s. 86(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 32 para. 8**

**F136** S. 225(3C)-(3G) inserted (17.7.2012) (with effect in accordance with s. 25(2)-(5) of the amending Act) by Finance Act 2012 (c. 14), s. 25(1)

**F137** S. 225(4) substituted (with effect as mentioned in s. 86(2) of the amending Act) by Finance Act 2002 (c. 23), s. 82(1), **Sch. 32 para. 9**

**F138** Words in s. 225(4) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 394** (with Sch. 2 Pts. 1, 2)

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### Miscellaneous

#### 226 Provisions which are not to apply.

- (1) <sup>F139</sup> .....
- (2) <sup>F140</sup> .....

[<sup>F141</sup>(3) No relevant contract (within the meaning of [<sup>F142</sup>Part 7 of the Corporation Tax Act 2009] ) forming part of a premium trust fund of a corporate member shall be a derivative contract.]

#### Textual Amendments

- F139** S. 226(1) repealed (with effect as mentioned in s. 80(2) and Sch. 24 of the amending Act) by Finance Act 2002 (c. 23), ss. 80, 141, Sch. 24 para. 7(2), Sch. 40 Pt. 3(11)
- F140** S. 226(2) repealed (with effect as mentioned in s. 79(3) and Sch. 23 of the amending Act) by Finance Act 2002 (c. 23), s. 141, Sch. 40 Pt. 3(10)
- F141** S. 226(3) substituted (with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83, Sch. 27 para. 16
- F142** Words in s. 226(3) substituted (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 395 (with Sch. 2 Pts. 1, 2)

#### Modifications etc. (not altering text)

- C13** S. 226(3) applied by 2010 c. 8, s. 454(b) (as inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 1 (with Sch. 5 paras. 27, 32-34))

#### 227 Cessation: final underwriting year.

- (1) This section applies where a corporate member ceases to carry on its underwriting business, whether by reason of being wound up or otherwise.
- (2) Subject to the provisions of any regulations made by the Board—
- (a) the member’s final underwriting year shall be that in which its deposit at Lloyd’s is paid over to it or its liquidator, and
  - (b) the member’s underwriting business shall be treated as continuing until the end of that year.

#### Modifications etc. (not altering text)

- C14** S. 227 excluded (1.12.1997) by S.I. 1997/2681, reg. 4(2)

#### [<sup>F143</sup>227A] Restriction of group relief

- (1) Losses of the last active underwriting year of a corporate member are not eligible for surrender by the corporate member as group relief to another company unless the group-relief continuity condition is satisfied.
- (2) In this section “last active underwriting year”, in relation to a corporate member, means—

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- (a) if the corporate member writes insurance business in only one underwriting year, that underwriting year, and
  - (b) otherwise, the last underwriting year in which the corporate member writes insurance business.
- (3) Where in an underwriting year—
- (a) the corporate member writes an amount of insurance business which is insignificant when compared with that written by it in the preceding underwriting year, or
  - (b) the only insurance business written by the corporate member consists of the acceptance of reinsurance to close premiums,
- the underwriting year is not to be regarded for the purposes of subsection (2)(b) above as an underwriting year in which the corporate member writes insurance business.
- (4) In subsection (3)(b) above “reinsurance to close premium” means a premium or other consideration under a contract in pursuance of which, in accordance with the rules or practice of Lloyd’s, one underwriting member agrees with another to meet liabilities arising from the latter’s underwriting business in an underwriting year so that the accounts of the business for that year may be closed.
- (5) The group-relief continuity condition is satisfied if the corporate member (as the surrendering company) and the other company (as the claimant company) meet the conditions in [F144section 131 (the group condition), section 132 (consortium condition 1) or section 133 (consortium conditions 2 and 3) of the Corporation Tax Act 2010] throughout the period—
- (a) beginning with the last day of the last active underwriting year of the corporate member, and
  - (b) ending with the first day of the first underwriting year in which losses of the last active underwriting year are declared.]

#### Textual Amendments

**F143** S. 227A inserted (19.7.2007 with effect in accordance with s. 33(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 33\(1\)](#)

**F144** Words in s. 227A(5) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 283](#) (with [Sch. 2](#))

#### [F145] **227B Transfer of underwriting business without change of ownership**

- (1) This section applies where, in accordance with the rules or practice of Lloyd’s, a corporate member (“the successor”) has taken up the syndicate capacity of another corporate member (“the predecessor”).
- (2) [F146Chapter 1 of Part 22 of the Corporation Tax Act 2010 (transfers of trade without a change of ownership)] applies as if—
- (a) [F147the transferred trade referred to in that Chapter]( ) were the underwriting business of the predecessor,
  - (b) the predecessor ceases to carry it on, and the successor begins to carry it on, at the end of the first underwriting year in which profits or losses of the predecessor’s last active underwriting year are declared, and

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- (c) [<sup>F148</sup>sections 951 and 952] were omitted.
- (3) For the purposes of subsection (1) above the successor has taken up the predecessor's syndicate capacity if it has taken up the rights to participate in syndicates which were (or otherwise would be) offered to the predecessor.
- (4) In subsection (2)(b) above “last active underwriting year” has the same meaning as in section 227A above (see subsections (2) to (4) of that section).]

#### Textual Amendments

- F145** S. 227B inserted (19.7.2007 with effect in accordance with s. 43(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 43\(1\)](#)
- F146** Words in s. 227B(2) substituted (1.4.2013) (with effect in accordance with art. 1(3) of the amending S.I.) by [The Tax Law Rewrite Acts \(Amendment\) Order 2013 \(S.I. 2013/463\), arts. 1\(2\), 7\(2\)\(a\)](#)
- F147** Words in s. 227B(2)(a) substituted (1.4.2013) (with effect in accordance with art. 1(3) of the amending S.I.) by [The Tax Law Rewrite Acts \(Amendment\) Order 2013 \(S.I. 2013/463\), arts. 1\(2\), 7\(2\)\(b\)](#)
- F148** Words in s. 227B(2)(c) substituted (1.4.2013) (with effect in accordance with art. 1(3) of the amending S.I.) by [The Tax Law Rewrite Acts \(Amendment\) Order 2013 \(S.I. 2013/463\), arts. 1\(2\), 7\(2\)\(c\)](#)

#### [<sup>F149</sup>227C] Exemption for profits or losses of foreign permanent establishments

- (1) This section applies for the purposes of section 18A(6) and (7) of the Corporation Tax Act 2009 (exemption for profits or losses of foreign permanent establishments: “relevant profits amount” and “relevant losses amount”).
- (2) Any regulations made under section 229(1)(d) below are to be ignored.
- (3) Profits or losses which are taken to arise to a corporate member in an underwriting year from its membership of one or more syndicates are to be left out of account in relation to any relevant accounting period so far as they are profits or losses of a previous underwriting year which began before the relevant day (as defined in section 18F of the 2009 Act (effect of election under section 18A)).
- (4) Profits or losses arising to a corporate member from assets forming part of a premium trust fund which are taken to be profits or losses of an underwriting year are to be left out of account in relation to any relevant accounting period so far as they are allocated under the rules or practice of Lloyds to a previous underwriting year which began before the relevant day (as defined in section 18F of the 2009 Act).]

#### Textual Amendments

- F149** S. 227C inserted (17.7.2012) (with effect in accordance with Sch. 20 para. 55(2) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 20 para. 8](#)

#### 228 Lloyd’s underwriters: individuals.

- (1) Chapter III of Part II of the 1993 Act (Lloyd’s underwriters: individuals) shall have effect subject to the amendments specified in Schedule 21 to this Act.
- (2) The following provisions shall cease to have effect, namely—

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- (a) section 627 of the Taxes Act 1988 (elections by Lloyd’s underwriters with respect to retirement annuities);
  - (b) in section 641 of that Act, subsection (2) (elections by Lloyd’s underwriters with respect to carry-back of contributions); and
  - (c) in section 183 of the 1993 Act, subsection (3) (amendments of sections 627(5) and 641(2) of the Taxes Act 1988).
- (3) Subject to any provision to the contrary, the provisions of Schedule 21 to this Act have effect for the year 1994-95 and subsequent years of assessment.
- (4) Subsection (2) above has effect for the year 1997-98 and subsequent years of assessment.

### *Supplemental*

## **229 Regulations.**

[<sup>F150</sup>(1)] The Board may by regulations provide—

- (a) for the assessment and collection of tax charged in accordance with section 219 above <sup>F151</sup>...;
- (b) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of this Chapter as appear to the Board to be expedient having regard to those changes;
- (c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a corporate member becomes insolvent or otherwise ceases to carry on its underwriting business;
- [<sup>F152</sup>(ca) for modifying the application of this Chapter in relation to cases where assets forming part of a [<sup>F153</sup>premium] trust fund are the subject of—
  - <sup>F154</sup>(i) .....
  - [<sup>F155</sup>(ii) [<sup>F156</sup>arrangements involving repos (within the meaning given by section 554(4) of the Corporation Tax Act 2009); or
  - (iii) arrangements meeting the conditions in section 554(2) of that Act (redemption arrangements);]
- (d) for giving credit for foreign tax.

[<sup>F157</sup>(2) Any power to make regulations conferred by this section includes power to make—

- (a) different provision for different cases or different purposes, and
- (b) incidental, supplemental or transitional provision and savings.]]]

#### **Textual Amendments**

- F150** S. 229(1): s. 229 renumbered as s. 229(1) (20.7.2005 for specified purposes, 1.1.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 45\(5\)\(8\)\(9\)](#); S.I. 2005/3337, art. 2
- F151** Words in s. 229(1)(a) repealed (20.7.2005 for specified purposes, 1.1.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 45\(6\)\(8\)\(9\), Sch. 11 Pt. 2\(11\)](#); S.I. 2005/3337, art. 2
- F152** S. 229(ca) inserted (1.5.1995) by [1995 c. 4, s. 83\(2\)](#)
- F153** Word in s. 229(ca) substituted (1.12.2001) by [S.I. 2001/3629, art. 87\(e\)](#)
- F154** S. 229(ca)(i) repealed (19.3.1997 with effect as mentioned in Sch. 10 para. 7(1), Sch. 18 Pt. VI(10), Note 1 of the repealing Act) by [1997 c. 16, s. 113, Sch. 18 Pt. VI\(10\)](#); S.I. 1997/991, art. 2
- F155** S. 229(1)(ca)(ii) substituted (with effect in accordance with art. 3 of the commencing S.I.) by [Finance Act 2007 \(c. 11\), s. 47\(4\), Sch. 14 para. 19](#); S.I. 2007/2483, art. 3

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- F156** S. 229(1)(ca)(ii)(iii) substituted for s. 229(1)(ca)(ii) (1.4.2009) (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 396** (with Sch. 2 Pts. 1, 2)
- F157** S. 229(2) inserted (20.7.2005 for specified purposes, 1.1.2006 in so far as not already in force) by Finance (No. 2) Act 2005 (c. 22), s. 45(7)(8)(9); S.I. 2005/3337, art. 2

## 230 Interpretation and commencement.

(1) In this Chapter, unless the context otherwise requires—

“the 1993 Act” means the <sup>M16</sup>Finance Act 1993;

“ancillary trust fund”, in relation to a corporate member, does not include a [<sup>F158</sup>premium] trust fund but, subject to that, means any trust fund required or authorised by the rules of Lloyd’s, or required by a members’ agent or regulating trustee of the corporate member;

“closing year”—

- (a) in relation to an underwriting year, means the underwriting year next but one following that year; and
- (b) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;

“corporate member” means a body corporate which is a member of Lloyd’s and is or has been an underwriting member;

“inspector” includes any officer of the Board;

“the Management Act” means the <sup>M17</sup>Taxes Management Act 1970;

“managing agent”, in relation to a syndicate and an underwriting year, means—

- (a) the person registered as a managing agent at Lloyd’s who was acting as such an agent for the syndicate at the end of that year, or
- (b) such other person as may be determined in accordance with regulations made by the Board;

“member” means a member of Lloyd’s who is or has been an underwriting member;

“members’ agent”, in relation to a corporate member, means a person registered as a members’ agent at Lloyd’s who has been appointed by the corporate member to act as its members’ agent in respect of all or any part of its underwriting business;

[<sup>F159</sup>“premium trust fund” means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under [<sup>F160</sup>[<sup>F161</sup>Rule 8.2.19 of the [<sup>F162</sup>Prudential Sourcebook for Insurers made by the Prudential Regulation Authority] under the Financial Services and Markets Act 2000;]

“prescribed” means prescribed by regulations made by the Board;

“profits” includes gains;

“regulating trustee”, in relation to a corporate member, means a person designated as such by the terms of any trust deed by which a premiums trust fund of the corporate member is constituted;

“stop-loss insurance” means any insurance taken out by a corporate member against losses in its underwriting business [<sup>F163</sup>, except insurance taken out by entering a quota share contract (within the meaning of section 225 above)];

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“syndicate” means a syndicate of underwriting members of Lloyd’s formed for an underwriting year;

“underwriting business”, in relation to a corporate member, means its underwriting business as a member of Lloyd’s;

“underwriting year” means the calendar year.

- (2) For the purposes of this Chapter, unless the contrary intention appears—
- (a) the profits or losses of a corporate member’s underwriting business include profits or losses arising to it—
- (i) from assets forming part of a [<sup>F164</sup>premium] trust fund or an ancillary trust fund; or
- (ii) from assets employed by it in, or in connection with, its underwriting business; and
- (b) any charge made on a corporate member by the managing agent of a syndicate of which it is a member, and any expense incurred on its behalf by the managing agent of such a syndicate, shall be treated as expenses arising directly from its membership of that syndicate.
- (3) Subject to any provision to the contrary, the provisions of this Chapter have effect for accounting periods ending on or after 1st January 1994 or, as the case may require, for the underwriting year 1994 and subsequent underwriting years.]]

#### Textual Amendments

- F158** S. 230(1): Word in the definition of “ancillary trust fund” substituted (1.12.2001) by [S.I. 2001/3629, art. 87\(f\)](#)
- F159** S. 230(1): Definition of “premium trust fund” substituted (1.12.2001) by [S.I. 2001/3629, art. 85](#)
- F160** Words in s. 230(1) substituted (1.7.2005) by [The Lloyds Sourcebook \(Amendment of the Finance Act 1993 and the Finance Act 1994\) Order 2005 \(S.I. 2005/1538\), arts. 1, 3](#)
- F161** Words in s. 230 substituted (31.12.2006) by [The Lloyds Sourcebook \(Finance Act 1993 and Finance Act 1994\) \(Amendment\) Order 2006 \(S.I. 2006/3273\), arts. 1, 3](#)
- F162** Words in s. 230(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\), art. 1\(2\), Sch. para. 4](#)
- F163** Words in s. 230(1) inserted (with effect as mentioned in s. 86(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 86, Sch. 32 para. 10](#)
- F164** Word in s. 230(2)(a)(i) substituted (1.12.2001) by [S.I. 2001/3629, art. 87\(f\)](#)

#### Modifications etc. (not altering text)

- C15** S. 230 applied (1.5.1995) by [1995 c. 4, s. 127\(16\)\(b\)](#)  
S. 230 applied (29.4.1996 with effect as mentioned in s. 105 of the amending Act) by [1996 c. 8, s. 99, Sch. 11 para. 7\(2\)](#) (with Pt. IV Chapter II (ss. 80-105))

#### Marginal Citations

- M16** 1993 c.34.  
**M17** 1970 c.9.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(2)(g) inserted by [2023 c. 30 Sch. 13 para. 28](#)
- s. 160(2)-(7) modified by 2010 c. 8 s. 464(6) (as inserted) by [2017 c. 32 Sch. 5 para. 1](#)
- Sch. 5 para. 2(1)(pa) inserted by [S.I. 2022/109 reg. 4](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)